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TO THE
MEMBERS
OF THE
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THE
FOLLOWING TREATISE
IS RESPECTFULLY DEDICATED.

THE *Sam^l. Miller.*
P R I N C I P L E S

OF
M O R A L P H I L O S O P H Y

INVESTIGATED,
AND BRIEFLY APPLIED TO THE CONSTITUTION
OF CIVIL SOCIETY:

TOGETHER WITH
R E M A R K S

ON
THE PRINCIPLE ASSUMED BY MR. PALEY AS THE BASIS OF
ALL MORAL CONCLUSIONS,

AND ON OTHER POSITIONS OF THE SAME AUTHOR.

✓
BY THOMAS GISBORNE, M. A.

L O N D O N:
PRINTED BY T. BENSLEY,
FOR B. WHITE AND SON, HORACE'S HEAD, FLEET-STREET;

M, DCC, LXXXIX:

P R E F A C E.

THE subsequent Treatise was occasioned by an appointment, which I understand to have taken place in the University of Cambridge, that candidates for the degree of Bachelor of Arts shall be examined in the “Elements of Moral and Political Philosophy.”

No one can rejoice more sincerely than myself at every academical regulation, which facilitates the study of morality; a study of universal importance, and deserving of the utmost encouragement in a seminary particularly designed to complete the education of Christian ministers. Nor can any one be more fully convinced of the purity of the motives which gave rise to the appointment which I have mentioned, or more willing to bear ample testimony to the excellence of various parts of Mr. Paley's work. Yet I am also persuaded that the principle assumed by

Mr. Paley, as the criterion of moral duty, is open to fundamental objections of the utmost magnitude; and that many of his conclusions are not such as just reasoning would establish. As I shall hereafter state the general causes likely to facilitate the reception of any erroneous opinions maintained in the work in question, I shall at present only observe, that those opinions must operate with particular force, when apparently sanctioned by the approbation of the University; and with consequences particularly to be lamented, when instilled into persons of that age, in which the mind is easily impressed, and liable to acquire a lasting partiality for the principles which it imbibes.

It is not my intention to hold up to public notice every error into which I may imagine Mr. Paley to have fallen, nor to construct a complete system of morality. The former would be a purpose too uncandid, the latter too presumptuous. After preparing my way
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by an examination of Mr. Paley's fundamental position; I shall endeavour to establish principles less exceptionable; and shall briefly apply them to the constitution of civil society. I shall also occasionally remark on such of Mr. Paley's conclusions as fall within my immediate plan, when they appear to me to be inaccurate, and to regard topics of such importance as to merit further inquiry. I am willing to believe that, in prosecuting this inquiry, I shall not forget what is due to the very respectable author who is the subject of it; and to hope that the same considerations, which have led me to investigate the errors of others, will teach me to acknowledge with gratitude the detection of my own.

In prefixing my name to this publication, I cannot surely be suspected of entertaining a thought so preposterous, as that of inviting, in any respect whatever, a personal comparison of Mr. Paley and myself. The fact is, that a considerable portion of the following

pages was written before I had the most distant idea of avowing them. Reflection, however, and the opinion of others, convinced me that it would be in vain to expect a short and anonymous performance to attract such a share of public attention, as to have a chance of counteracting in any degree the acknowledged sentiments of Mr. Paley; and that, by pursuing my original plan, I should at once ensure to this Treatise that total neglect and oblivion, to which a book authenticated by the signature of any individual is not usually consigned, until a fair trial has been granted, and the sentence has been found to be deserved.

I cannot close this Preface without performing an act of justice, and expressing how materially I have been indebted in many of the subsequent discussions to the important observations suggested by my excellent friend, Mr. Babington, of Rothley Temple.

*Roxall Lodge,
March 27, 1789.*

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54	20		
25	15	}	<i>for unlimited read unlimited.</i>
30	12		<i>for tract read track.</i>
34	21	}	<i>after good dele the comma.</i>
52	8		<i>for the second their read his.</i>

P A R T I.

EXAMINATION OF MR. PALEY'S FUNDAMENTAL PRINCIPLE OF MORALITY.

C H A P. I.

INTRODUCTORY REMARKS ON THE "ELEMENTS OF "MORAL AND POLITICAL PHILOSOPHY."

HE who offers his opinions to the world ought to be impelled by such motives as will vindicate him, to the satisfaction of candid minds, from the charge of presumption. I have already noticed, in my preface, the general grounds on which I venture to solicit attention to my sentiments on subjects of morality. Those grounds it may now be proper more fully to explain.

Mr. Paley has obtained, and has in many respects deserved, a peculiar share of public favour. The selection of the most important

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topics

topics for the exercise of his abilities; the sedulous industry with which he has prosecuted his researches; the spirit of benevolence and piety which pervades and animates his writings; these are merits which entitle him to the distinguished regard of every friend of natural and revealed religion. Where shall we discover sounder or more pointed arguments than those by which many of his positions are enforced? Where shall we look for models of elucidation more apposite than the examples by which those arguments are illustrated? Where is the work, in which the intricacies of abstruse speculation are more constantly accommodated to practical utility; and moral conclusions more happily applied to the incidents of common life? Yet if, into a work recommended by so many and so powerful considerations, fundamental errors have been admitted; if momentous conclusions rest on principles either false in themselves, or improperly applied, or insufficient to support all the inferences deduced from them; the probable effects on the moral conduct of men cannot fail to be in a high degree extensive and dangerous. Every circumstance which, on the perusal of one chapter, spreads
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a glow of approbation over the mind of the reader, contributes to prevent him from suspecting or discovering the mistakes in the next. Embracing, partly from the conviction of his reason, partly from his preconceived opinions of right and wrong, the conclusions presented to him, he no longer doubts, if he had doubted before, the truth of the propositions from which they are derived. Reflecting on the purity of the stream, he forgets to examine the salubrity of the fountain from which it springs, and of the channels through which it is conveyed.

The style and arrangement adopted by former moralists, far from captivating the attention of the student, have too often taught him to consider moral investigations as unalluring and distasteful. He found himself perplexed with intricate details, pursued through innumerable subdivisions, and frequently disgusted with the uninteresting conclusion obtained by so laborious a process. In compliance with the prejudices, the indolence, and in many respects with the reasonable expectations, of mankind, later writers have deviated from the track of their predecessors;

they have abandoned dry and unprofitable speculations ; they have mitigated the rigour of scientific method by the elegance of flowing language ; and enlivened the barrenness of strict demonstration by the graces of modest ornament. The intention was dictated by wisdom, and has been executed with ability. The labours of Mr. Paley, and of others, who have been induced by motives equally wise to adopt a similar plan, have obtained the applause, and have influenced the conduct, of numbers, who turned from former treatises on the same subjects with contempt and aversion.

While I contemplate with pleasure this more general diffusion of knowledge of the most important kind, may I not be permitted to remark that some of the causes, which have ensured to Mr. Paley's work such extensive popularity, would naturally lead the world to overlook the defects inherent in any principle, assumed by him as the ground-work of moral and political philosophy ? And may I not add, that the principle which he has adopted is peculiarly calculated to captivate the generality of readers ; while at the same time

many

many of his ^a observations and conclusions are such as tend to quiet the alarms of the rigid moralist?

The doctrine of general expediency, which constitutes utility the sole measure of the rectitude or depravity of every action, and at the same time leaves the discretion of the agent to judge of that utility, will cheerfully be embraced by those whose indolence desires a rule of conduct easy to be retained, and of universal application; by those whose vague opinions and ill-governed passions are averse to absolute and immutable restraints; and by those whose mistaken liberality of sentiment suggests that a moral agent should in every case be permitted to determine for himself, unfettered by any dictates of revelation, what actions will promote on the whole his happiness or misery. Other causes, unconnected with these prejudices and errors, will concur in producing the same effect. The seeming piety of the idea, that the rule to which the conduct of the Almighty is conformable should be the standard of human actions, will

^a See Mr. Paley's remarks on general rules, and on perfect rights.

dazzle well-disposed minds. Persons of an opposite description, who may find it convenient to affect a sense of virtue which they have not, will gladly profess a principle which leaves them to the sole guidance of their own discretion.

Such is the alluring nature of Mr. Paley's general rule; and many of the inferences derived from it will accord with the reader's preconceived notions of morality. In the chapters to which I have already referred (not to particularize others) he is presented with conclusions bearing evident marks of truth and justice; and if he does not pause to consider how far they are consistent with the principle from which they are said to flow, and how far they are compatible with other parts of Mr. Paley's work, he will be persuaded that the duties which he has been used to regard as of absolute obligation continue no less indispensable under the rule of general expediency.

I apprehend, however, that the principle of expediency, employed by Mr. Paley as the basis of all his moral reasoning, is liable, in
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the hands of man, to continual misapplication; that, in many cases, it leads to conclusions unfavourable to human happiness; that it is incompatible with the precepts of scripture; and that it never was designed, nor can possibly be adopted, for the regulation of human conduct. In the following pages I shall endeavour to establish the validity of these assertions; and, in the place of general expediency, to substitute and apply other principles, founded on reason, confirmed by revelation, and consequently not exposed to similar objections.

They, who are deeply convinced of the pernicious and indefinite effects of error, who are alarmed at the train of evils which would ensue if men were actuated, in concerns of the highest moment, by a principle destitute of foundation, will not deem it uninteresting to examine the validity of a doctrine, likely from its own nature, to be so generally embraced; and, from the mode of applying it, to be so little questioned. I am aware of the disadvantageous terms on which a writer, unknown to the public, combats authority so weighty as that of Mr. Paley. Yet,

whatever be the deference paid to names by the generality of mankind, an inquiry into subjects of the utmost importance we may hope, in this age and country, will be received with candid attention, not only without the concurrence of adventitious aid, but even in opposition to it. It cannot, at least, be apprehended that in our universities, consecrated to the investigation of truth, a prejudice, universally giving way, should fix its latest residence. “ We ^b appear astonished when we
 “ see the multitude led away by sounds; but
 “ we should remember that, if sounds work
 “ miracles, it is always upon ignorance. The
 “ influence of names is in exact proportion to
 “ the want of knowledge.”

^b See Mr. Paley's preface,

C H A P. II.

STATEMENT AND APPLICATION OF THE PRINCIPLE OF
GENERAL EXPEDIENCY ACCORDING TO MR. PALEY.

It will be proper to lay before the reader a brief statement of Mr. Paley's fundamental propositions before I enter into an examination of their truth; and I shall leave them to make their full impression on his mind, reserving my objections to be unfolded in subsequent chapters.

After having shewn that those rules of life by which men are ordinarily governed—the law of honour, the law of the land, and the scriptures—do not supersede the study of ethics; the first being founded on caprice, sometimes absurd and frequently vicious; the second professedly omitting many duties and tolerating many crimes; and the third not containing a specific determination of particular cases which continually occur; he directs his inquiries to the consideration of the moral sense.

sense. And, having ^a proved that its existence is problematical; that its dictates, admitting its existence, cannot now be distinguished from prejudices and habits, and can derive substantial weight only from resorting to ulterior sanctions; he asserts that resort may be had to these sanctions by a surer rule, and proceeds to develop the nature and the source of moral obligation. He states that ^b all obligation consists in being urged by a violent motive resulting from the command of another; and that moral obligation ^c implies the being impelled to perform certain actions, and to abstain from others, by the expectation of future rewards and punishments, resulting from the injunctions of God. Hence he infers, that to ^d inquire what is our duty, or what we are obliged to do, in any instance,

^a Though I have concurred in the general conclusions established in Mr. Paley's chapter on the moral sense, I must not be understood to acquiesce in every thing which that chapter contains. The observation that "perhaps no maxims in morality can be assigned which are universally true, and do not bend to circumstances," will be the subject of future disquisition.

^b Page 57, Vol. I. Ed. 6th. 8vo. To this edition all subsequent references are made,

^c Page 59, Vol. I.

^d Page 62, Vol. I.

is,

is, in effect, to inquire what is the will of God in that instance,

The truth of the Christian religion having been pre-supposed, Mr. Paley observes that there are two methods of discovering the will of God on any point.

First, By his express declarations, when they are to be obtained, in the scriptures.

Secondly, By what we can discover of his designs and disposition from his works; or, as we usually call it, from the light of nature.

On the presumption of the divine benevolence—a presumption which Mr. Paley afterwards confirms from a consideration of the constitution of nature, and which might have been shewn to be a fundamental principle of Christianity—he concludes that * the method of ascertaining the will of God concerning any action, by the light of nature, is to inquire

* Page 70, Vol. I.

into the tendency of the action to promote or diminish the general happiness.

Whatever ^f is expedient he affirms to be right. But, in consequence of having shewn^g the necessity of all moral government being administered according to general rules, he subjoins, “ It ^h must be expedient, upon the
 “ whole, at the long run; in all its effects
 “ collateral and remote, as well as in those
 “ which are immediate and direct; as it is
 “ obvious that, in computing consequences,
 “ it makes no difference in what way, or at
 “ what distance, they ensue.”

Mr. Paley, having once established to his satisfaction the principle of general expediency, in the manner which I have stated, applies it as the sole standard not of those moral duties only concerning which the scriptures do not furnish him with sufficient information, but of all moral duties universally, of whatever nature, and however ascertained. “ The
 “ criterion ⁱ of right is utility.” “ *What-*

^f Page 70, Vol. I.

^g Page 74, Vol. I.

^h Page 78, Vol. I.

ⁱ Page 71, Vol. I.

“ *ever*^k is expedient is right.” “ It is the
 “ *utility* of *any* moral rule *alone* which consti-
 “ tutes the obligation of it.” He further
 declares that every moral rule is liable to be
 superseded in particular cases on the ground
 of expediency. “ Moral philosophy^l cannot
 “ pronounce that any rule of morality is so
 “ rigid as to bend to no exceptions; nor, on
 “ the other hand, can she comprise these
 “ exceptions within any previous description.
 “ She confesses that the obligation of every
 “ law depends upon its ultimate utility;
 “ that, this utility having a finite and deter-
 “ minate value, situations may be feigned,
 “ and consequently may possibly arise, in
 “ which the general tendency is outweighed
 “ by the enormity of the particular mis-
 “ chief;” and of course when ultimate uti-
 lity, and consequently the will of God, render
 it as much an act of duty to break the rule,
 as it is on other occasions to observe it.

But who shall judge of the expediency?
 “ Every^m man,” he replies, “ for himself.”

^k P. 70, Vol. I.

^l P. 411, Vol. II.

^m P. 142, Vol. II.

“ The^a danger of error and abuse is no ob-
 “ jection to the rule of expediency, because
 “ every other rule is liable to the same or
 “ greater; and every rule that can be pro-
 “ pounded on the subject (like all rules
 “ which appeal to and bind the conscience)
 “ must in the application depend upon private
 “ judgment.”

This paragraph, in which the argument is
 couched in general terms, equally applicable
 to every case of expediency, contains the lan-
 guage and determination of Mr. Paley on the
 duty of civil submission or resistance: and it
 contains what must be his language and deter-
 mination respecting every other moral duty,
 as he founds all on the same principle.

^a P. 143, Vol. II.

C H A P. III.

PRESUMPTIONS AGAINST THE TRUTH OF MR. PALEY'S
PRINCIPLE FROM IT'S PROBABLE EFFECTS ON HUMAN
HAPPINESS.

THE result of the statement contained in the preceding chapter appears to be, that, according to Mr. Paley's principle, a man is bound to the observance of each moral rule as long as he thinks such observance generally expedient; that he is permitted and obliged to disregard it, whenever in his opinion the violation of it will be attended upon the whole with beneficial consequences; and that with respect to *every* moral rule such cases may exist.

Before we enter into an examination of the truth or fallacy of the arguments by which this doctrine is supported, it may be of use to consider its nature and tendency, and to bestow a minute attention on the effects which it would be likely to produce, if universally admitted

admitted, on the conduct and happiness of mankind.

A moralist, possessed, like Mr. Paley, of a sound and penetrating understanding, actuated by a sincere reverence for the scriptures, a firm attachment to virtue, and a decided abhorrence of vice; if he also concur in Mr. Paley's principle, must maintain that in certain possible cases he should deserve not merely pardon, but approbation, from his fellow-creatures, for actions which are usually deemed the blackest crimes. He must maintain that circumstances may arise which shall entitle him to the reward of everlasting glory, at the judgment-seat of Christ, for his rapine, for his hypocrisy, for his perjuries, for his murders, for having betrayed his country, or abjured his God! He must maintain that his private opinion of future consequences is the standard which alone establishes the meaning of the plainest precepts, and the obligation of the most positive injunctions, of the gospel!

From Mr. Paley's concessions it must be allowed that no one of the cases described is too extravagant to be verified by facts, or to be

be authorised by general expediency. But if his previous declarations would have permitted him to assert that no crime, such as those which I have specified, can ever be generally expedient, (an assertion which on grounds very different from Mr. Paley's may be firmly established), his principles would still remain open to the same objection: for they would equally justify a man in the commission of any one or all of these enormities, provided he were *persuaded* of the general utility of his conduct, whether that persuasion were the result of reason, of prejudice, or of fanaticism.

Such would be the fruits of this doctrine when applied by a wise and virtuous moralist. What then would be its effects when applied by a man possessed of wisdom, but destitute of virtue? or of virtue, but destitute of wisdom? or equally deficient in both? Would it not be made to assume every form under the hand of artifice, and to countenance every practice under the control of passion and interest? How would it be narrowed and contracted, when submitted to the ignorance of the bulk of mankind, so little

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qualified to discover and appreciate the various causes of ultimate utility, to trace remote contingencies, and contemplate the designs of Providence with a comprehensive eye! When we are estimating the consequences which would accrue to human happiness from the general reception of Mr. Paley's principle, we must take into the account not only those conclusions which are fairly deducible from it, but those also which we may reasonably suppose will be inferred, or represented as inferred, from it, by a considerable part of mankind. We are further to pay particular attention to the use likely to be made of this doctrine by princes and men in power, as their influence over the happiness of others is so extensive and so great.

Let us consider, then, whether the admission of this rule would not be extremely favourable to despotism. A monarch is told that there is no such thing as right in opposition to general expediency; and he is also told that *he* is to judge of that expediency. He can scarcely meet with a principle more likely to mislead himself; nor need he wish for one more convenient, when he is desirous
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of imposing upon others. If he be a good man, conscious of the purity of his views, and strongly impressed with a conviction of the blessings which would arise from the success of his plans, how easily will it vindicate to his own satisfaction any line of conduct which he may wish to pursue. If he be ambitious and designing, it will never fail to supply him with specious reasoning, with which he may dazzle or blind his subjects, and prevent them from opposing him with firmness and vigour.

Nor would this principle point more directly, or lead more rapidly, to civil than to religious slavery. When the matchless benefits of true faith, and the invaluable happiness of everlasting salvation, were pressed upon him, how often would an ^aupright monarch

^a Mr. Paley allows (P. 328, Vol. II.) that, if such conclusions as these would follow from his principle, it must be given up. In fact it must, according to his own statement, be given up, if it be probable that such conduct, as those conclusions profess to authorise, would frequently follow from its reception. He states, in perfect conformity to his principles (P. 329), that it is lawful for the magistrate to interfere in the affairs of religion, *whenever* his

narch be persuaded that general expediency required him to abandon the heretic to the zeal of the misguided, but well-meaning, priest? And how much more frequently would the tyrant and the bigot defend upon this plea the preconcerted sacrifice of an obnoxious sect to their rapacity and pride?

A moderate knowledge of history will teach us that this reasoning is confirmed by numerous facts. The principle of expediency has been alleged to justify successive invasions of the civil and religious rights of mankind, too palpably unjust to be vindicated on any other plea. Was it not alleged when the Albigenes were devoted to the sword, when the fires of the Inquisition were kindled? Unhappily for the world, its influence is not extinguished in modern times. Was it not the foundation of the abominable doctrines of the Jesuits, of their intriguing counsels as politicians, their unchristian compliances as missionaries? Have we not recently heard

interference *appears to him* to conduce by its general tendency to the public happiness. Will not such an appearance continually present itself to the eye of ignorance, of policy, and of enthusiasm?

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it maintained to vindicate the actions of a neighbouring despotic monarch; and those of a subject frequently more despotic, the West Indian planter?

I have selected the foregoing examples of the probable effects of the reception of this rule, as being capable, from their magnitude, of description and illustration; but perhaps I should be justified in affirming that the numberless train of evils which would spring from the same source, and infest private life, though singly not sufficiently prominent to be characterised, would collectively produce an aggregate of misery greater than all that could arise from the instances which I have produced.

Upon inquiry, I believe it will be found that few systems of oppression have not been justified or palliated on the principle laid down by Mr. Paley.

I will conclude these remarks with submitting two considerations to the judgment of the reader :

First, Does it appear probable, *a priori*, that the Almighty would leave his creatures to the guidance of so vague and so dangerous a rule?

Secondly, If an unprejudiced person were to argue from general expediency alone, would not his first conclusion be, that this rule of conduct should not be adopted by men?

C H A P. IV.

ARGUMENTS AGAINST THE TRUTH OF MR. PALEY'S
PRINCIPLE, DEDUCED FROM A COMPARISON OF
THAT PRINCIPLE WITH THE SCRIPTURES.

I SHALL in the next place examine what countenance Mr. Paley's principle of general expediency derives from the scriptures.

The first consideration which will strike an attentive mind is the total silence of the Old and New Testament on the subject. ^a In no part whatever of holy writ are we directed to frame our conduct in obedience to this rule. The instructions therein contained are, like the duties which they enforce, of two kinds; some are precise and absolute, as the injunc-

^a The injunction "to do good unto all men" will scarcely be alleged as a scriptural proof of Mr. Paley's principle. Taken in the most comprehensive sense, it does not command or encourage us, in doing good, to follow our ideas of general expediency, in opposition to the directions of holy writ.

tions prohibiting idolatry, perjury, and various crimes ; others, equally obligatory, are indeterminate, as the precepts enjoining reverence of parents and charity to the poor. With regard to the performance of duties of the first class, no scope is given for the exercise of human discretion, no deviation allowed from a consideration of the consequences of obeying ; man is peremptorily commanded to abstain from the forbidden act. As to the others, though in general we are left to judge of the manner in which they are to be discharged, yet it by no means appears that our determination is to be governed by the principle stated by Mr. Paley. It will be shewn hereafter that this cannot be supposed to have been in any case intended by our Maker. We are indeed directed, whatever we do, to do it for the glory of God ; but it remains to be proved that we shall promote the glory of God by pursuing our notions of general expediency.

The silence of the scriptures is not the only nor the strongest reason we have for concluding that Mr. Paley's principle is inconsistent with our obedience to God. Reve-

lation admits of no agreement or parley with a doctrine utterly subversive of the spirit and obligation of her precepts. The statement of Mr. Paley's positions, which I have given in the second chapter, together with some of the remarks made upon them in the third, affords incontestable proof, that in his opinion there is no command in holy writ, however plainly expressed, however forcibly inculcated, which a man is not permitted, which he is not bound, to violate, whenever his blindness, his interest, his frenzy, induce him to imagine that the violation will ultimately be productive of advantage. Every man is thus invested with an unlimited dispensing power, authorising him to take the government out of the hands of God, and to decide when his laws are proper, and when they are not proper, to be obeyed! Such a dispensing power has not hitherto been admitted among protestants; and it is as little to be tolerated, and as little to be justified, on the plea of general expediency, as on that of infallibility. Mr. Paley observes concerning honour what he might with no less truth have affirmed of general expediency, that " if its unautho-
 " rised

“ rised laws ^b be allowed to create exceptions
 “ to divine prohibitions, there is an end of
 “ all morality as founded on the will of the
 “ Deity; and the obligation of every duty
 “ may at one time or other be discharged by
 “ the caprice and fluctuation of fashion,”
 and the suggestions of selfish ignorance.

It may not be useless to produce one of the instances in Mr. Paley’s work, in which an adherence to his principle has led him to conclusions at variance with the scriptures.

In his chapter entitled “ The considera-
 “ tion of general consequences pursued” we
 meet with the following lines : “ From the
 “ principles delivered in this and the two
 “ preceding chapters, a maxim may be ex-
 “ plained, which is in every man’s mouth,
 “ and in most men’s without meaning; viz.
 “ *not to do evil that good may come* — that is,
 “ let us not violate a general rule for the
 “ sake of any *particular* good consequences
 “ we may expect—which is *for the most part*
 “ a salutary caution, the advantage *seldom*

^b P. 273, Vol. I.

“compensating for the violation of the
“rule.”

This explanation of the precept is no less circumscribed than the permission of discretionary exceptions is unauthorised. When St. Paul rejects totally and with abhorrence the doctrine of doing evil that good may come, and affirms of those who falsely imputed it to him, that their damnation is just; on what scriptural grounds can it be called by so light a name as a caution? On what scriptural grounds can it be inferred, that the opinion which we may entertain of future consequences, whether particular or general, will in any case absolve us from obedience? Let the reader fairly put a case to himself: let him suppose that it were in his power to obtain the management of a great empire by means of perfidy and murder; and that he were persuaded that the consequences of his taking those previous steps would be on the

* In the subsequent chapter I apprehend it will be proved that there is as little ground furnished by *reason* for applying general expediency as the criterion of this or of any moral rule.

whole

whole beneficial to mankind—would he then take them? Would he listen to the tempter who suggests to him, “^d All these things will I give thee if thou wilt fall down and worship me?”

The asserter of Mr. Paley’s system maintains that he ought.

“^e Nay but, O man, who art thou that repliest against God?”

^d Matt. iv. 9.

^e Rom. ix. 20.

C H A P. V.

DEMONSTRATIVE REFUTATION OF MR. PALEY'S
PRINCIPLE FROM REASON.

IN order to prove that general expediency is the standard by which men are to regulate their moral conduct, Mr. Paley observes, that “ God Almighty wills and wishes the
 “ happiness of his creatures; and conse-
 “ quently that those actions, which promote
 “ that will and wish, must be agreeable to
 “ him; and the contrary.”

The fact on which his argument rests demands our unconditional assent. We know that the Divine Author of the universe is a Being of unbounded benevolence. We know that a desire of promoting happiness, or, in other words, general expediency, extending to all created beings, is an unchangeable motive of his conduct. The conclusion deduced from this fact is also strictly true. The Almighty approves or disapproves of actions in
 the

the abstract, according as they promote or impair general happiness. But many circumstances are to be taken into the accounts before we can be authorised to conclude that we then best promote universal happiness, when, according to *our ideas of it*, we appear to do so ; or that the general scheme of Providence was designed to be the object of human imitation.

Are we to assume, as a self-evident proposition, that the path marked by the steps of Omnipotence is the tract in which weakness and frailty are to tread ? Does it admit of no doubt, whether the principle which gives birth to the decrees of eternal wisdom be the ground on which short-sighted ignorance may best found its conclusions ? Does the infinite distance between the Creator and the created afford no room for apprehension that the endless chain of causes and effects, however naked and open to the eye of God, may afford only a bewildering and delusive light to the faculties of man ?

On another occasion Mr. Paley shews himself sufficiently aware that the general
rule

rule by which the dispensations of the Almighty are directed cannot be adopted as the guide of human actions. In his chapter on crimes and punishments, after stating that the object of the Deity in the infliction of the latter is exactly to proportion the degree of pain to the guilt of the offender, and of men, merely to prevent crimes, without regard to any such proportion; he remarks, (P. 273, Vol. II.) that “ it is natural to
 “ demand the reason why a different measure of punishment should be expected
 “ from God, and observed by man; why
 “ that rule, which befits the absolute and
 “ perfect justice of the Deity, should not be
 “ the rule which ought to be pursued and
 “ imitated by human laws. The solution of
 “ this difficulty must be sought for *in those*
 “ *peculiar attributes of the divine nature,*
 “ which distinguish the dispensations of supreme wisdom from the proceedings of
 “ human judicature. A Being, whose knowledge penetrates every concealment; from
 “ the operation of whose will no art or flight
 “ can escape; and in whose hands punishment is sure; such a Being may conduct
 “ the moral government of his creation, in
 “ the

“ the best and wisest manner, by pronouncing
 “ a law that every crime shall finally receive
 “ a punishment proportioned to the guilt
 “ which it contains, abstracted from any fo-
 “ reign consideration whatever; and may
 “ testify his veracity to the spectators of his
 “ judgments, by carrying this law into strict
 “ execution. But, when the care of the
 “ public safety is intrusted to men, whose
 “ authority over their fellow-creatures is li-
 “ mited by defects of power and knowledge;
 “ from whose utmost vigilance and sagacity
 “ the greatest offenders often lie hid; whose
 “ wisest precautions and speediest pursuit may
 “ be eluded by artifice or concealment; a
 “ *different necessity, a new rule, of proceeding*
 “ *results from the very imperfection of their*
 “ *faculties.*”

Now the divine rule of inflicting punish-
 ments comes recommended to us by the con-
 duct of the Almighty, the same sanction on
 which the rule of general expediency is pro-
 posed. Had Mr. Paley employed with res-
 pect to the latter the same train of reasoning
 which he has adopted concerning the former,
 he could not have failed to discern that the
 imperfection

imperfection of our faculties, compared with the peculiar attributes of the divine nature, proves the same necessity for a different rule of human actions in the one case as in the other.

From the very principle of divine benevolence, on which Mr. Paley's doctrine of general expediency is founded, we must be convinced that our Maker would never subject his creatures to the guidance of a rule, which it is impossible for them to comprehend, and consequently to obey. A moment's reflection must teach us that such is the rule^a proposed by Mr. Paley. General expediency is an instrument not to be wielded by a mortal hand. The nature of general consequences is too comprehensive to be embraced by human understanding, too dark to be penetrated by human discernment. In contemplating an

^a " By presuming to determine what is fit and what is beneficial, they presuppose more knowledge of the universal system than man has attained ; and therefore depend upon principles too complicated and extensive for our comprehension ; and there can be no security in the consequence when the premises are not understood."

Dr. Johnson's Journey to the Western Isles, p. 253.

action, who can form any adequate judgment of its collateral and remote effects making unceasing approaches towards infinity and eternity? Yet (as Mr. Paley observes), in computing consequences, it makes no difference in what way or at what distance they ensue. In instances the most level to our capacities we perceive no more than a part of the effects which may result from our conduct; a part perhaps which, in point either of extent or importance, bears no assignable proportion to that which remains unseen. A faint glimpse of particular expediency is all that can ever be attained by the wisest of men. A view of general utility is the property of God alone; in him alone it is inherent; to created beings it may be incommunicable: but, whether communicable or not, it can never be the foundation of a rule of conduct to those on whom it has not been bestowed. A proof of general good, being highly difficult of investigation, would have rendered it improbable that mankind should, in all cases, be required to consult it: a proof that it is never to be discerned demonstrates the impossibility of their being required to consult it in any.

But

But perhaps it will be said that I have been combating a phantom raised by myself; that Mr. Paley by no means intended to affirm that our moral conduct is to be guided by an actual view of general expediency in this comprehensive sense, that view being confessedly beyond the reach of our faculties; but that our actions are to be regulated by what appears to us to be expedient, as far as we can discern their probable consequences.

Such an explanation affords no real support to Mr. Paley's system. It is a confession that we are to look not to *general* expediency, but to an expediency extending, as we imagine, to the few, and perhaps unimportant, consequences which we can distinguish; in other words, to *particular* expediency, and that of a most limited kind. All that has been urged in the third and fourth chapters against the rule of general expediency, from its probable effects on human happiness, and from its opposition to the tenor and authority of scripture, applies with equal force against this particular expediency: this would have an equal tendency to fill the world with oppres-

sion and misery; this gives an equal right to transgress the commands of revelation at discretion.

Supposing for a moment that the last objection were not conclusive against the admission of the rule, what are the advantages which may be alleged by its advocates as inducements for its reception? Is it such a rule as would best qualify us to promote the divine plan of universal good? Is the degree of expediency, which we can discern, in any case such as to justify us in inferring that we have a tolerable insight into general expediency? Surely no one will answer in the affirmative. As well might an Abyssinian pretend to delineate the whole course of the Nile, in consequence of having traced the windings of the infant river for a few miles contiguous to his hut. As well might a fisherman infer that his line, which has reached the bottom of the creek in which he exercises his trade, is capable of fathoming the depths of the Atlantic. He, who best knows how few are the consequences which he can foresee, compared with those which are wrapped

wrapped in obscurity, will be the most ready to confess his ignorance of the universal effects of his actions.

If this argument wanted confirmation, it might receive it from a view of the moral, to say nothing of the natural, government of the world. Even though we are previously convinced that the great object of the Almighty is the happiness of his creatures, in numerous instances we see very imperfectly how the detail of his operations conduces to the end which he has in view. Sometimes presumptuous ignorance would lead us to imagine that we perceive circumstances which militate against it—as the permission of moral evil; others wherein there is an appearance of imperfection—as in the late establishment and partial diffusion of Christianity; and numbers which seem indifferent to the design proposed, or neither fully nor directly to conduce to it. If then we are so far from discovering the propriety and excellence of the parts of a system, which we are certain is framed in exact conformity to the standard of general expediency, we may be convinced how little our utmost sagacity could have dis-

covered of the ultimate tendency and effects of our conduct ; we may be assured that we are wholly unqualified to determine whether those actions, which seem to further the particular expediency within the reach of our foresight, would or would not conduce to general good ; that the limited knowledge of expediency attainable by the wisest of men is unfit to be adopted as the basis of moral rectitude ; and that, if it were adopted, we should too often be acting in direct opposition to the will of God, at the time when^b we had fondly persuaded ourselves that we were most strenuously employed in promoting it.

If a pilot were entangled among quicksands, and overtaken by a fog, would he disregard his compass and his chart, depending on the strength of his eyesight alone for security from surrounding dangers, and for a safe arrival at the distant harbour ? If a Christian find himself involved in temptations and difficulties, should he rely on his very contracted views of expediency, in opposition to

^b This has particularly been the case with religious persecutors, but by no means with them alone.

the dictates of the gospel? Yet sooner may that pilot have a clear insight into the remotest and darkeſt receſſes of the ocean than the Chriſtian into the indefinite conſequences of his actions. The pilot is concerned to judge aright, that he may eſcape preſent death; the Chriſtian, that he may ſecure himſelf from death eternal.

Theſe arguments, together with thoſe contained in the third and fourth chapters, ſeem to form an inſuperable barrier againſt the admiſſion of this rule of particular utility, on whatever foundations it may be repreſented as fixed. It cannot however be in any degree fixed on the foundation upon which Mr. Paley's argument in behalf of his principle avowedly reſts; for it cannot be collected from the conduct of God. Our knowledge of the attributes of the Deity enables us to aſſert his univerſal benevolence; but our experience of his diſpenſations by no means permits us to affirm that he always thinks fit to act in ſuch a manner as is productive of particular expediency; much leſs to conclude that he wills us always to act in ſuch a manner as we ſuppoſe would be productive of

it. This appears sufficiently plain from what has been already stated ; but here revelation comes to the aid of reason, and precludes all further argument on this subject. Scripture abounds with instances of evils brought, as it is there declared, by the hand of the Almighty on individuals and on nations for their ultimate benefit. Nor has our heavenly Father adopted a different conduct under the Christian dispensation. We know that he wishes the happiness of each individual ; yet how often does he inflict on his faithful servant a particular calamity, the disappointment of promising hopes, bodily distempers, mental disability ? Who would think himself authorised by his views of expediency in inflicting these, or similar calamities ? But in the hands of the Almighty occasional evil is frequently employed, how frequently we know not, as an instrument of producing general good : as the drug, which in its own nature contains a deadly poison, under the management of the skilful physician becomes a salutary remedy. General good we can affirm to be the uniform object of the divine conduct ; particular good we can discern not to be that object. Consequently, whatever reason we might have for

conceiving that we should be bound by the will of God to an invariable pursuit of the former object, if we were able to discern it, we can have none for concluding that he wills the latter to be the fixed criterion of our moral conduct.

The remarks contained in the present and the two preceding chapters have finally brought us to this conclusion.

The conduct of the Almighty affords us no ground for inferring that he wills us to conform our moral actions to the standard assumed by Mr. Paley, whether that standard be our opinion of *general* or of *particular* expediency. Reason rejects the former principle as beyond her comprehension, and both of them as subversive of human happiness; and revelation forbids us to listen to doctrines, either of which arms every man with a discretionary power of violating her most sacred laws.

P A R T II.

GENERAL RIGHTS AND OBLIGATIONS OF
MEN, DEDUCED FROM REASON AND RE-
VELATION.

C H A P. I.

PRELIMINARY REMARKS ON THE GROUNDS FROM
WHICH THE PRINCIPLES OF HUMAN CONDUCT ARE
TO BE DERIVED BY NATURAL REASON—STATE-
MENT OF CERTAIN PRINCIPLES.

IF it has been demonstrated in the former part of this treatise that general expediency is not the principle from which reason is to deduce moral conclusions, the question will immediately arise, on what grounds is she to proceed?

A recollection of the erroneous and fatal inferences, which we have seen would naturally be derived from a principle lost in remoteness

modestness and obscurity, will contribute materially to facilitate our researches. It will convince us that the utility of the premises, from which rules of life are to be drawn, depends on their not taking their rise from too high a source, and on their being accommodated, as much as may be, to the general level of human capacity. From a view of the situation and nature of man; a being placed on this earth by his Maker, endowed by him with peculiar gifts, and accountable to him for the use of them; a number of subordinate rules may, I apprehend, be deduced adequate to the purpose of directing his steps in every case on which the gospel is silent; rules which will not only appear to be sanctioned by the uniform tenor of revelation, but in return will support and corroborate the injunctions of holy writ.

Mr. Paley having remarked that the will of God, the invariable standard of our conduct, is, in the first place, to be sought in scripture; and, if it cannot be discovered therein, is, in the next place, to be collected from general expediency, illustrates his observations by the following instance:

“ An

“ ^a An ambassador, judging by what he
 “ knows of his sovereign’s disposition, and
 “ arguing from what he has observed of his
 “ conduct, or is acquainted with of his de-
 “ signs, may take his measures in many
 “ cases with safety; and presume with great
 “ probability how his master would have him
 “ act on most occasions that arise : but,
 “ if he have his commission and instructions
 “ in his pocket, it would be strange not to
 “ look into them. He will naturally con-
 “ duct himself by both rules : when his in-
 “ structions are clear and positive, there is an
 “ end of all further deliberation (unless indeed
 “ he suspect their authenticity): where his
 “ instructions are silent or dubious, he will
 “ endeavour to supply or explain them by
 “ what he has been able to collect from other
 “ quarters of his master’s general inclination
 “ or intentions.”

Where the ambassador’s instructions are
 clear, without doubt he will implicitly obey
 them: where they are silent, or afford but
 ambiguous light, he is not to substitute in
 their place his own ideas of what may be ge-

nerally expedient for his country. He knows that his master's uniform design is to promote the general good of the empire; that design he is bound to further, but not by immediately taking upon himself to judge what circumstances will be most beneficial. He previously fixes his attention on a number of subordinate particulars, which may supply the deficiency of his instructions, by giving him precise indications of the line of conduct which he ought to adopt. He reflects that his master has uniformly opposed the opening of this port, the imposition of this duty, and the repair of that fortress. To these points, though omitted in his instructions, and to all points clearly analogous to them, he rigidly adheres; he depends on their being generally expedient for the empire, perhaps he discerns them to be so; but, if he is unable to discover this, if he imagines that he sees some appearance of the contrary, his conscience obliges him uniformly to insist upon propositions which his reason tells him are enjoined by the will of his sovereign.

When a Christian receives ambiguous instructions, or no instructions, from his gospel, let him not extend his view to
a subject

a subject which can be contemplated only by an infinite mind; let him, like the ambassador, consider his own peculiar situation; let him endeavour to collect the will of his sovereign on some specific and fundamental points; and, from the result of his inquiry, deduce subordinate rules for the direction of his conduct. There is another circumstance to be taken into the account:—the ambassador may feel assured that his master is mistaken, the Christian will not deem the same of his.

Research into the original rights and obligations of unconnected individuals must necessarily precede all inquiries into the duties of men when united in civil society. For the only objects, the disposal and arrangement of which can be claimed by any society, are the respective rights of its several members. The materials therefore must be collected before the fabric can be raised.

A reference to these rights and obligations must also regulate the conduct of the members of the same society towards each other, in all cases, when the laws of the society do not give precise directions.

And

And a similar reference must govern their behaviour towards all individuals not belonging to their society, nor connected with it by any express or implied engagements.

I shall, therefore, in the first place, investigate the primitive rights and obligations of mankind independent of the scriptures, and of the institution of civil society; and shall afterwards point out how far they are confirmed by the former, and on what principle they may be suspended or modified by the latter.

For this purpose I shall endeavour to prove the truth of the following propositions.

I. Every man has originally a right, by the gift of God, to the unrestrained enjoyment of life and personal freedom; and to such a portion of the unappropriated productions of the earth as is necessary for his comfortable subsistence.

II. He therefore, who deprives another of these gifts, or restrains him in the enjoyment of them, except such deprivation

ation or restraint is sanctioned by divine authority, is guilty of an act of injustice to the individual, and of a sin against God.

III. Every man originally has authority from God to deprive another of these gifts, or to restrain him in the enjoyment of them in the following cases, and in those only :

1st, When in so doing he acts according to the express command of God.

2dly, When he proceeds in such deprivation and restraint so far, and so far only, as is necessary for the defence of the gifts of God to himself, or, in case his assistance is desired, in defence of the gifts of God to another, against attacks unauthorised by God.

3dly, When he proceeds to such deprivation or restraint in consequence of the consent of the individual suffering it.

IV. Every

IV. Every man sins against God who either voluntarily consents to relinquish or abridge any of his natural rights; or who does not endeavour to resist, by all requisite force, every unauthorized invasion of them, except he is persuaded that, by imposing the restraints in question upon himself, or by submitting to the imposition of them by another, he shall not in any degree disqualify himself from answering, on the whole, the great purposes of his being. And in like manner every man sins against God who accepts from another a transfer of any of his rights, unless he is persuaded that by such acceptance he shall not in any degree disqualify the latter from answering, on the whole, the great purposes of his being.

If these propositions shall be satisfactorily established, they will be found to settle on solid and determinate grounds the obligations of justice in all its branches; and to afford a clear insight into the distinguishing characteristics of what moralists have usually styled perfect and imperfect rights.

C H A P. II.

THE FIRST AND SECOND PROPOSITIONS DEMONSTRATED.

THE first proposition to be proved is, that “ every man has originally a right, by the gift of God, to the unrestrained enjoyment of life and personal freedom; and to such a portion of the unappropriated productions of the earth as is necessary for his comfortable subsistence.”

By the terms personal freedom, I must always be understood to mean freedom from personal injury as well as from personal restraint.

By a right, I mean authority from God for the enjoyment of any particular thing, or for the performance of any particular action.

I shall also occasionally use the term right, after the example of others, to signify what
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in strict propriety is the object of the right—as when it is said that life is one of the rights of man.

Under the expression natural rights, those rights which every individual possesses independent of the institutions of civil society, will hereafter be comprehended.

Independent of any social engagement with others of his species, every man finds himself possessed of existence, of various bodily powers and mental faculties. He cannot but discover the impossibility of his having conferred life upon himself; and must become convinced that he has received these gifts from a gracious Being, the author of himself and of the universe. He may therefore be assured that he has a right to the undisturbed enjoyment of these blessings as long as it shall seem meet to the power who bestowed them. As the wisdom apparent in the visible constitution of nature forbids him to think that the Deity would exert his power in vain, and lavish his bounty without having an adequate end in view, he may reasonably conclude that whatever has been conferred on himself has

been conferred for important purposes. When he casts his eyes around on the rest of his species, he perceives that every individual is placed in the same situation, each possessed of life and various powers, the gifts of the same God, for purposes equally important. The same reasoning therefore may be applied in favour of their rights as in favour of their own ; and, if he applies it, he must discover it to be his duty not to incur the guilt of disobedience in the eyes of an Almighty Benefactor, and the punishment attending his displeasure, by an uncommissioned encroachment on his gifts to others ; he must know that he has no authority to interrupt any of his fellow-creatures in accomplishing those purposes, whatever they may be, for which their common Maker called them into being.

He discovers, further, that he is in danger of speedily losing all these gifts, unless he takes proper measures for their preservation. The natural want of food, and the presence of fruits capable of supplying it, afford him sufficient grounds for concluding that they were formed for the support of his life, and that he has a right to apply them to the use for
which

which they were evidently intended by the will of God. And in general, perceiving how admirably different parts of the inanimate creation (which, being incapable of sensation, must be incapable of injury) answer his purposes, he may very reasonably infer that God designed them for the use of man, and may take in consequence whatever he finds necessary, whether it be for food, for raiment, for shelter, or defence. He observes too that the rest of mankind have the same wants with himself, and the same title to the objects by which they are to be removed. From these reflections he may justly determine, that the fruit which any individual has plucked from the bough, and the tree which he has felled in the forest, are the especial gifts of God to that individual; and consequently that neither has he himself any more right to interrupt another, or another to interrupt him, in the quiet enjoyment of these or any similar gifts, than either of them would have to disturb the other in the possession of life or freedom^a.

I have

^a If the foregoing observations do not prove (besides their professed object) that reason might convince man-

I have said that a man in a state of nature *might* arrive at a knowledge of his duty by the foregoing train of reasoning. Whether he *would* thus attain that knowledge, whether these several arguments and conclusions (though all of them within the reach of his faculties, and some of them most obvious) would in reality suggest themselves to his mind, is a point of no importance to the present inquiry. The object of our investigation is not to discover what principles he would be likely to adopt, but what principles he ought to adopt. An acquaintance with the former might shew what his conduct probably would be; a knowledge of the latter alone can point out what it ought to be. However ignorance, prejudice, and passion, might bias and warp his opinions, they cannot alter the essential difference between right and wrong. To display this difference, to develop the rules of human duty, and place them on their true

kind of the existence of the Deity, and of the certainty of future rewards and punishments, I must be understood for the present to take those points for granted; as I fully agree with Mr. Paley that such a conviction is the only adequate ground of moral obligation.

foundations,

foundations, is the proper and the only business of the moralist.

The first proposition being established, it will follow, as it is expressed in the second, that he who deprives another of the above-mentioned gifts, or restrains him in the enjoyment of them, except such deprivation or restraint is sanctioned by divine authority, is guilty of an act of injustice to the individual, and of a sin against God.

We have seen that the natural title of each individual to the quiet enjoyment of life, of personal freedom, and of such a portion of the unappropriated productions of the earth as is necessary for his comfortable subsistence, is clear, and full, resting on the will of God. A gift conferred by any authority cannot be revoked but by equal authority, or by greater. He, therefore, who claims a right forcibly to deprive his neighbour in any respect of the free use of the gifts which God has bestowed upon him, is bound to produce at least as strong and as authentic testimony of its being the will of God that the deprivation should take place, or the restraint be imposed, as the

other can that it should not. And if he presumes, without the production of such testimony, forcibly to interfere with the rights of another, he is not only guilty of injustice to that individual, but he acts in direct defiance of the Being by whom those rights were bestowed.

No plea therefore can justify the invasion of the natural rights of another except manifest authority from God.

It remains to be considered in what cases such authority can be proved.

C H A P. III.

THE THIRD PROPOSITION DEMONSTRATED.

THE first branch of the third proposition declares, that every man has originally divine authority to deprive another of the gifts of God, or to restrain him in the enjoyment of them, when in so doing he acts according to the exprefs command of God.

It is not necessary to enlarge on a position, the truth of which no man will dispute. The reality of such a command is the only point which can ever be questioned: and we may safely determine that no claim to inspiration is to be admitted, unless it be supported by the evidence of supernatural powers; for these are the only credentials by which the inspired messenger of God can be distinguished from the impostor; and they are the credentials by which the mission of those who have been charged with especial commands from above has in all ages been authenticated.

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The second branch of the proposition affirms, that every man has originally divine authority to deprive another of the gifts of God, or to restrain him in the enjoyment of them, when he proceeds in such deprivation or restraint so far, and so far only, as is necessary for the defence of the gifts of God to himself, or, in case his assistance is desired, in defence of the gifts of God to another, against attacks unauthorised by God.

It has been shewn, without any reference to scripture, that all men are naturally possessed of certain rights; and further, that an uncommissioned attack on the rights of another would be a sin against God.

This will be confessed. But perhaps it may be alleged, that these considerations alone do not prove our actual right of opposing by force any such attack; that restraining the freedom, and much more endangering the life of another, though an aggressor, may be a line of conduct equally unauthorised with his own; that his guilt will be no justification of ours; that we have no more right to kill an assassin than we have to destroy an infectious person,

person, who may be as likely to occasion our death ; that we may lament the approach of either as a severe misfortune ; but that it may be our duty patiently to submit the event to God, and to leave to him the punishment of the offender, and the vindication of his own authority.

This fundamental objection to the right of self-defence is not to be obviated merely by urging that the destruction of the human race would be the ultimate consequence of admitting it. We are not allowed to oppose our ideas of future consequences to the direct authority of God. It has been proved that every man has originally that authority for the quiet enjoyment of his natural rights ; and we must produce authority equally direct before we presume to restrain them.

In reply then it may be observed, that it would be no less our duty to guard our life against the infected man than against the assassin ; and, if the former should *wilfully* attempt to injure our health, he may be resisted by the same methods as the latter. If no such attempt be made, salutary precautions
or

or removal are the only justifiable means of self-preservation; for, even if we take for granted that we should be authorised to oppose him by force if he should purposely invade our rights, we can have no claim to restrain him if he does not. A proof however of the irrelevance of a particular instance does not invalidate the principle which it was intended to illustrate. The subsequent remarks, it is apprehended, directly meet and refute the objection.

The natural ability which every man has received from his Maker of retaining, abridging, or relinquishing, any of his actual rights, as well as of accepting a transfer of the rights of others, it may be presumed that he has authority to exert and employ, *so far as is compatible with the gifts of God to his fellow creatures*. And this presumption is confirmed by incontestable arguments. The authority in question is necessary to constitute each individual a moral agent. The discretionary right of employing the gifts of God, in a manner either conformable or repugnant to the donor's will, renders his existence a state of trial, and himself a fit object of future retribution.

retribution. He is to accomplish, by his own endeavours, the purposes of his being; he is therefore constituted the guardian of his natural rights, by the use of which those purposes are to be accomplished; he is commissioned to judge in every case of the means requisite for the defence of the gifts committed to his custody; and is equally authorised, within the limits abovementioned, to protect them from injury, whether it be likely to arise from hunger, from cold, from the violence of a savage animal, or from the unwarranted attacks of a savage of his own species.

He, therefore, who, by unjustly invading the rights of another, has met with resistance, and has thereby lost any of his natural rights, his property, his health, his limbs, or his life, must impute the loss wholly to himself. He runs upon a weapon pointed against him by the hand of God; and the detriment which he receives is to be viewed in the same light as if it had been incurred by means of any other incident, which, by God's appointment, is attended with consequences painful or destructive.

To the preceding observations some important inferences may be subjoined.

First : The same reasons, which prove that men are authorised by the will of God to defend their rights when actually attacked, equally prove them to be authorised, when they are sufficiently assured that an attack is intended by another, to lay such restraints on him as are necessary to prevent it, and to continue them so long as that necessity subsists.

Secondly : The same reasons likewise justify men in taking all necessary methods to compel the restitution of the freedom, or the property of which they have been unjustly deprived ; such methods being only a continuation of the resistance which was made, or an exertion of such as might have been made, to the original attack. And they equally justify the necessary means for obtaining, what is analogous to restitution, an equitable indemnification for such rights as cannot be restored.

Thirdly : They apply equally to the defence and recovery of all the actual rights of men, whether originally received from God, or obtained

tained by their own exertions, or by the assistance and consent of others.

Fourthly : They do not authorise any manner of resistance beyond what is necessary to secure men from the effects of the violence offered to them, or impending over them.

Lastly : Whoever, by self-defence, in a case wherein self-defence was a duty, has incurred the hazard or loss of his life or other natural rights, is not chargeable with the guilt of disqualifying himself from fulfilling his Maker's purposes ; the risk of such loss being inseparable from the resistance which God enjoins.

It remains to be shewn^a under what circumstances an individual may be justified by
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^a They, who maintain the existence of a *moral sense*, will rank, among its suggestions, the desire of assisting a fellow-creature in distress ; and will consider that desire as an indication that a man has in all cases a natural right, by the will of God, to interpose by force in defence of the injured. However difficult it may be for my reader, whose benevolence is enlarged by revelation, to decline giving his assent to this argument, yet he will reflect, that no stress can be laid upon it until the *fact* on which it rests
be

the light of nature in forcibly depriving another of his rights, by giving assistance to a third person attacked by the latter.

From our former conclusions it is evident that he cannot be justified in thus interfering in behalf of any one whom he has reason to think may be the aggressor; nor in any case in interfering further than is necessary to secure the rights of himself and of those whom he protects.

Under these limitations he may interfere;

First: When the defence of the injured party is by nature committed to his care; as is the case of a parent and his young children.

Secondly: When his assistance is requested by the party aggrieved; for the latter has a right to impose the necessary restraints on the assailant by all the means in his power, and by his request imparts this right to the other.

be incontestably established. We are not at liberty precipitately to obey the impulse of philanthropy, unless we are previously convinced, on higher grounds, that we have a right to act in the manner proposed.

Thirdly:

Thirdly: When his own security is immediately connected with that of the person whom he assists; as if he is himself one of a company attacked by robbers: for the case then becomes self-defence.

Fourthly: When his own security is eventually concerned in repressing unauthorised invasions of the rights of another. And this will almost always be the case; since the safety of his own rights essentially depends on the repression of that injustice which he may reasonably expect will ere long be directed against himself, if permitted to trample on the rights of those around him.

In the last branch of the third proposition it is asserted, that every man has originally divine authority to deprive another of the gifts of God, or to restrain him in the enjoyment of them, when he proceeds to such deprivation or restraint in consequence of the consent of the individual suffering it.

This point has already been settled; as I have found it necessary in a former part of the present chapter to prove that every man is
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originally

originally invested by his Maker with discretionary authority to dispose of all his natural rights, and likewise to accept a transfer of the rights of another ^b.

We have now, I apprehend, considered all the cases in which a man has divine authority to deprive another of the gifts of God, or to restrain him in the enjoyment of them. Should any one assert that he has this authority in a case not comprehended within the limits of those which have been discussed, he must contend, if he would render his claim worthy of serious notice, that the right has been bestowed upon him for one or more of the following purposes.

1. To enable him to promote the happiness of himself :

2. Or the happiness of the individual whose rights he is about to infringe :

^b The cases and the manner in which these rights, and the other rights which have been established, ought to be exercised, will be investigated under the remaining proposition.

3. Or

3. Or the happiness of some other individual:

4. Or the happiness of mankind in general; in other words, for the sake of general expediency.

On the first head it will be sufficient to observe, that a claim set up by an uninspired individual to infringe the gifts of God to another, whenever he conceives that such a step will conduce to his own happiness, is an insult to him who conferred those gifts; and is resisted by the whole train of reasoning which has been employed to shew that all men possess the same natural rights, and have those rights at their own disposal. It is a claim which every one may assert, which no one can prove, and which never can be admitted until it be established by proofs the most decisive.

If, in the second place, the aggressor rest his claim on the ground of contributing to the good of the individual whose rights he is about to invade, can he shew that the Almighty has constituted him the judge of his neigh-

bour's happiness? On the contrary, is it not the fact that God has left every man to determine what line of conduct will most effectually promote his own welfare; and has empowered him to act accordingly, provided that he does not thereby infringe the rights of any of his fellow-creatures? Nay, hath it not been shewn essential to moral agency, that every one, who is to be rewarded or punished for the use he shall make of the gifts which God has bestowed upon him, should have the power of employing them in any manner which he shall think most conducive to his happiness, subject only to the abovementioned limitation, and of retaining or relinquishing them solely at his own option? It follows then, that, even if the assailant could prove by the most incontestable evidence that the happiness of the person whom he attacks would be in the highest degree promoted by the loss of the rights in question, such a proof would contribute nothing to his own vindication. What though we admit it to be on this account the duty of the other in the sight of God to resign them; it is a duty, for the discharge of which he is answerable only to his God!—for it is the possessor of these rights, and not the invader

invader of them, whom God has appointed to judge in what cases it is more advisable that they should be retained, and when it is better that they should be relinquished.

Thirdly: If the aggressor maintain his claim on the ground of promoting the happiness, not of the person attacked, but of some other individual, or individuals, an application of the preceding observations will shew that a presumption, or a conviction, of what their happiness requires, will not in any degree justify his invasion of the rights of another. If he has no authority to impose restraints, in order that he may promote the happiness of the person restrained, a claim to impose them for the benefit of others must be, if possible, more unreasonable.

The fourth plea, that of general expediency, has been, I apprehend, so fully refuted in the former part of this treatise, that it may be dismissed without further discussion.

It may not be improper in this place to inquire whether restraints, the original im-

sition of which was unjustifiable, may in any cases be continued consistently with justice.

The principles laid down in the present chapter evidently point out the following rule. Restraints originally unjust may be continued in all cases which would justify the present imposition of them, and in no other.

Thus, if I had unjustifiably taken a sword from another man, I should be authorised to retain it so long as I should have sufficient reason to believe that, on receiving it, he would revenge himself by plunging it in my breast. After the satisfaction of his claims, and the removal of his apprehensions, he would have no grounds for restraining me in the enjoyment of my natural rights; and I should be justified in the previous use of all necessary force to secure myself from a meditated injury.

I will subjoin another instance, though drawn from civil society, a subject which has not yet been investigated, as it relates to a topic much agitated at present. The West-Indian
negroes,

negroes, though in general reduced to slavery by unjust means, may be detained in that state as long as there is sufficient reason to believe that, if emancipated, they would massacre the planters, or ravage the islands.

In all cases however the foregoing rule presupposes that it is full and impartial deliberation which has convinced us that the continuance of the restraint in question is necessary to our justifiable self-defence: for otherwise we should not be authorised now to impose it.

If, for example, methods can be devised, and I see no reason why they may not, which may enable us to emancipate the children of the negroes without exposing our colonies to the abovementioned calamities, we are bound in justice to adopt them. Nor can we be authorised to continue the unjust slavery, either of children or parents, unless a *serious* and *candid* inquiry convinces us that no such means are to be found,

It must be observed that the principles, which have been maintained respecting self-

defence and resistance, apply to men so far only as nature constitutes them moral agents. Thus they do not interfere with the natural rights of parents over their children; nor do they prohibit the exercise of salutary force towards a lunatic or an idiot; nor, on the proper occasions, towards those who are incidentally disordered in their understanding.

C H A P. IV.

THE FOURTH PROPOSITION DEMONSTRATED.

A principal object of the preceding propositions has been to ascertain those actions, which, antecedently to the institution of society, would not only be sins against God, but would also be acts of injustice to men. The actions noticed in the following proposition are such as would be offences in the sight of God, although not acts of injustice to any individual.

The fourth proposition is as follows :

Every man sins against God, who either voluntarily consents to relinquish or abridge any of his natural rights, or who does not endeavour to resist by all requisite force every unauthorised invasion of them; except he is persuaded that, by imposing the restraints in question upon himself, or by submitting to the imposition of them by another, he shall
not

not in any degree disqualify himself from answering on the whole the great purposes of his being. . And in like manner every man sins against God, who accepts from another a transfer of any of his rights, unless he is persuaded that by such acceptance he shall not in any degree disqualify the latter from answering on the whole the great purposes of his being.

Since it is obvious that every particular restraint, whether partial or total, of the exercise of any natural right, which an individual cannot impose upon himself without offending God, it is his duty to resist when an attempt to impose it is made by another; it will be the most simple, and at the same time no unsatisfactory method of discussing the first part of the proposition, to confine our demonstration to that part of it which respects the duty of resistance or forbearance.

It is the natural duty of every man to endeavour to preserve himself in such a state as may best enable him to fulfil the will of God; or, in other words, to answer those purposes for which his Maker called him into being,
And,

And, since almighty wisdom bestows no gift but for an end adequate to the value of that gift, there is in every case a presumption, antecedent to reasonings on either side of the question, that each right, of which an individual finds himself possessed by the bounty of Providence, is necessary to enable him fully to accomplish the purposes of his existence; and consequently that God wills him to retain it. He therefore sins against God if he slights this presumption, and forbears from resisting to the utmost of his power by all requisite force every invasion of his rights; unless he is convinced, by a full and impartial consideration of the benefits likely to result from his forbearance as well as from his resistance, that the former measure will upon the whole conduce at least as much as the latter to the ends for which he was created. If his conclusion should be, that the whole or the more important of these ends will be most effectually promoted by forbearance, it is then no less his duty to forbear, than it would have been on the contrary supposition to resist.

Similar considerations will also teach him whether he ought or ought not voluntarily to
abridge

abridge or to relinquish the exercise of any of his uninvaded rights.

It follows, from the observations which have been made, that he, who resists in a case wherein he conceives that his duty to God requires him to abstain from self-defence, though not answerable to the aggressor for the detriment which the latter brings upon himself by his attack, is answerable for it to his Maker; and also for the injury which he himself receives in the contest.

To a more severe account may he expect to be called, for the injury sustained both by himself and by the assailant, who resists when self-defence constitutes him an aggressor; as the robber, who by force withholds from its owner the property which he has stolen.

With respect to the second branch of the proposition, it is to be observed that he, who accepts from another a power of restraining any of his rights, when he has reason to believe that by such acceptance he in any degree disqualifies the other from fulfilling on the whole the purposes of his being, though he is not
answerable

answerable to the latter for the loss which he incurs by the surrender, commits a sin in the sight of God ; for it is the will of God, that every one of his creatures should accomplish the ends for which he was made : he therefore is guilty of resisting that will, who knowingly contributes to disable his incautious neighbour from fulfilling it.

Since it highly concerns every individual to form in each case a rational judgment, whether his duty to God requires him voluntarily to surrender any of his rights, to defend them when invaded, or to accept or refuse a power over the rights of another ; he ought previously to impress upon his mind adequate ideas of the various purposes for which he was created, and to appreciate, as far as may be, their relative importance.

The primary end of his being he knows to be the promoting and securing of his own salvation by a zealous service of his Maker.

There are subordinate purposes, conducive also to this principal object, which his reason and the very frame and constitution of his nature

nature teach him that he was formed to answer. These are, promoting the salvation of his fellow-creatures, and their present happiness as well, as his own.

The duties which he owes to mankind in general he will perceive to be owing in different degrees to different individuals. In proportion as particular persons are more closely connected with him by the ties of kindred and of affection; in proportion as they have heretofore shewn kindness to himself; in proportion as they stand more in need of the assistance which it is in his power to bestow; in proportion to the force of any or of all these circumstances, and of others which might be enumerated, he will find himself under a more pressing obligation to promote their present and future welfare. Though he is not answerable to men if he refuses to confer upon them those benefits, which he has a discretionary power of bestowing or withholding, he is accountable for that refusal to his God. For every opportunity of doing good to one of his fellow-creatures is an opportunity afforded him by his Maker of promoting his own salvation; and he is bound by every con-

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sideration

sideration of duty never to neglect that primary end of his existence.

The deduction of a few examples from the positions which have been maintained in this chapter may throw a clearer light on the subject.

Every man is bound in the sight of God to resist, if an attempt be made to deprive him of the liberty of praying to or praising God: for his own salvation is the primary end of his being, and those are his primary duties which must form the basis of the intercourse between himself and his Maker.

For the same reasons he cannot innocently consent to renounce these rights.

Nor can he innocently accept the surrender of them from another.

But every man may innocently refrain from defending or reclaiming any part of his property, if he believes that he shall promote the whole or the more valuable of his Maker's purposes

purposes equally well by forbearance as by resistance; and he ought to refrain, if he believes that he shall thus promote them better.

Similar considerations may prove that he is at liberty, or that he is obliged, in the sight of God, to accept from another a power over his property; supposing him to believe that neither the latter by parting with it, nor himself by accepting it, will answer less effectually the whole or the more valuable of the respective purposes of their being.

C H A P. V.

THE PRECEDING PROPOSITIONS SHEWN TO BE CONFIRMED BY THE SCRIPTURES.

THE principles, which have been deduced in the three preceding chapters from the light of unassisted reason, will acquire much additional authority, if they are shewn to be sanctioned by the scriptures. I shall, therefore, briefly prove that they possess this sanction, before I proceed to derive from them any further conclusions.

In the first place, the scriptures teach us, in concurrence with the first proposition, that existence, with every bodily power and mental faculty possessed by each individual, was bestowed upon him by the bountiful hand of God. They also declare, in general expressions, which convey the same natural rights to every individual, that the earth, under which term its various productions are manifestly comprehended, was delivered unto man

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to

to be *subdued* by him; that is, to be employed in such manner, and converted to such uses, as his necessities should require. He was invested with a particular right of applying the vegetable creation (a single exception being made, with the object of which he did not long continue to be conversant), to the purpose of his sustenance; and at a later period he received an extension^a of his authority; an extension giving him an unlimited power over the whole animal world, which already to a certain degree had been subjected to his dominion.

Further: It is to be observed that the scriptures have for their principal object the inculcation of this fundamental truth—that every man is placed upon earth by his Maker to work out his salvation by his own actions.

^a As animals are evidently susceptible of pain and injury, man, uninstructed by revelation, could not have had the least right to exercise any authority over them. To restrain them in the enjoyment, much more to deprive them of the possession, of those gifts, which his and their Maker had seen it good to bestow upon them, would have been in every case, except that of self-defence, an act of usurpation, and a sin against that Power, who, for wise ends known to himself, had called them into existence.

Since

Since the reward or punishment of every man will be increased in proportion to the manner in which he employs each of the means of action of which he is possessed, the scriptures necessarily and incontestably imply that his conduct should be free, except in cases in which it is restrained by his Maker: in other words (as it has been asserted in the second proposition), that he is guilty of a sin against God, who deprives another of any of the gifts of God, or restrains him in the enjoyment of them, except he has authority from God for so doing: and that he is also guilty of an act of injustice to the person thus deprived or restrained.

The reader will recollect that the right and duty of self-defence, the limitations to which they are subject, and all other rules of conduct laid down in the third and fourth propositions, or developed in the explanation of them, were severally rested on these principles; that each individual, being intrusted with the charge of accomplishing, by his own endeavours, the purposes of his being, must necessarily be constituted the guardian of the gifts bestowed upon him, for the use of which

he is accountable; that it is his duty to exercise the discretionary power with which he is invested in such a manner as may best enable him to fulfil the ends for which he was made; namely, to promote and secure his own salvation, together with the salvation of others, and their present happiness as well as his own. Now, since these principles do ultimately coincide with the great scriptural truth which has been stated above, it follows that every conclusion deduced from them by fair reasoning has scriptural authority for its basis. For a proof that the particular conclusions which have been deduced in the two preceding chapters are confirmed by the whole tenor of scripture, if my reader is well acquainted with his Bible, I will appeal to his own knowledge; if he is not, for the sake of obtaining this proof, among better reasons, let me request him to become so.

I will dwell on this subject no longer than while I obviate the force of a question which may be asked, and which some men, I fear, would be glad to think unanswerable: “ You
 “ have proved,” it may be said, “ that the
 “ great rules of human conduct contained in
 “ the

“ the scriptures are discoverable by the light
 “ of unassisted reason.—Where then was the
 “ necessity for the Christian revelation?”
 The Christian revelation, I reply, was necessary, that those rules of life, which none but the wisest would have deduced for themselves, and even they but imperfectly, might be placed at once before the bulk of mankind, expressed in the plainest language, founded on the most undoubted authority, and recommended by the most persuasive example. It was necessary particularly to enforce upon men the practice of the various duties of *forbearance*; a practice the most ungrateful to their natural passions. And, lastly, it was necessary to fix on immoveable foundations that corner-stone on which the whole fabric of our reasoning has been built—the certainty of a future state of retribution, in which every individual shall be rewarded or punished in exact proportion to his deeds.

C H A P. VI.

ON INDEMNIFICATION,

SEVERAL topics, which either have been cursorily noticed in the foregoing chapters, or are immediately deducible from the principles which have been maintained, may not improperly receive distinct consideration, as it is of importance that their true nature should be accurately understood. The subjects to which I allude are indemnification, punishment, slavery, and property.

By indemnification I mean the receiving of an equivalent for an injury sustained.

The right which an injured person has to indemnification, and the means by which it may be enforced, have already been shewn in the third chapter. The manner in which the claim is to be satisfied will appear from a review of the following cases :

1st: Let

1st: Let us suppose the party aggrieved to have been injured in his property alone, and the aggressor to be possessed of property sufficient for the purpose of compensation. Under these circumstances the fit mode of retribution is obvious.

2dly: But if the aggressor is destitute of property, or so poor as to be unable, even by the surrender of his whole substance, to satisfy the just demand of the man whom he has injured, how is he to complete the equivalent? He must appropriate to the use of the latter such a portion of the other gifts which God has bestowed upon him, such a portion of his strength, or of his industry, or of his skill, as will answer the remaining claim. What he cannot pay with his property he must pay with his service.

In this case, although the injured person may compel the aggressor to perform the requisite service, yet he has not necessarily a right to oblige the innocent family of the latter to co-operate in it. The aggressor, as far as he is possessed of such a right, may transfer it to the other, or may be deprived of it by him.

3dly : Suppose the injured party to have incurred loss of time and expense in defence of his rights, or in endeavours necessary for the recovery of them.

These are so many injuries brought upon him by the wilful act of the assailant ; and the sufferer has consequently a right to be indemnified. The particulars are reducible to computation, and an equivalent in property may be precisely ascertained : of course the reasoning on the foregoing cases is applicable to this.

4thly : Suppose the injured party to have undergone bodily pain or injury, or severe anxiety of mind, in consequence of the aggressor's attack.

He had originally the same right to freedom from injury in these points as in his property ; and consequently has the same title to indemnification in the one case as in the other : and indemnification in these, as in all instances, must be rendered in property or in service.

It is evident that, in the case of unconnected individuals, where the person who had received the injury would judge of the requisite compensation, as well as enforce the discharge of it, the exercise of this right would be pushed to unwarrantable lengths, and marked with caprice, violence, and outrage. It is equally evident, that the computation of a fair equivalent would be a matter of no small difficulty even to an unprejudiced bystander. But these circumstances do not invalidate the right itself, however they may indicate the duty of moderation in the exercise of it. A right does not cease to be so because it may be abused, nor because its limits may not easily be ascertained. Yet the computer is not entirely without land-marks to direct him. He may discern this recompense to fall short of what he may fairly claim, and that to exceed it. A basket of apples would be an inadequate compensation for the loss of a finger; and a herd of oxen might be more than an equivalent. He is to discover, as nearly as may be, the just medium between the two extremes; and he is answerable to his Maker for an impartial judgment.

Indemnification may be demanded for the injuries sustained by the family of the party aggrieved in consequence of the attack made upon him, as far as the aggressor must reasonably be supposed to have foreseen them; for so far they must be considered as intentional injuries. This reasoning applies with still greater force where they are known to have been intended.

With respect to enforcing or waving the exercise of the right to indemnification in any particular case or degree, the injured person is bound in the sight of God to adopt that line of conduct which he apprehends will, on the whole, most effectually forward the great purposes of his being. And in forming his judgment on this point, the advantage of the aggressor, with respect to the purposes which he also was created to accomplish, will be no inconsiderable object.

C H A P. VII.

ON PUNISHMENT.

HE who has obtained, by restitution or indemnification, complete satisfaction for the injuries which he has suffered, has no further claim on the aggressor, except for security against future violence, when it is on good grounds supposed to be intended. He has the same claim upon any man whom he believes to meditate an invasion of his rights, although he may never have invaded them hitherto. It has already been proved, that every man has authority from God previously to deprive another of his rights, so far as is necessary for securing himself from the proposed attacks of the latter; in other words, that every man, who has sufficient reason to believe that another individual meditates an unjust attempt against him, has a right to inflict on that individual such punishment as is necessary to prevent him from prosecuting his design.

These

These are the true and the only grounds on which the justice of human punishments can naturally be vindicated. To punish, by way of inflicting vengeance for crimes already perpetrated, is to usurp the prerogative of the Almighty.

In some cases security cannot be attained without inflicting such a punishment as absolutely deprives the aggressor of the power of committing the meditated outrage. In others (and these, fortunately for mankind, are the more numerous) the end may be sufficiently answered by measures less violent, which in all probability will deter the criminal from his purpose, though they do not proceed to the extent of disabling him.

No man has a right to inflict an additional punishment, or any punishment, upon an aggressor, for the mere purpose of deterring others from harbouring injurious intentions. The assertion of such a right would be directly repugnant to the principles of natural justice established in the third chapter. Yet if two justifiable modes of punishment suggest themselves to the mind of the person injured, either
of

of which would answer his purpose, he is bound in the sight of God to adopt that mode which appears most likely to deter others from engaging in criminal undertakings. Instead of punishing the offender with stripes, let him bind him to a tree by the way-side, characterised by symbols of his guilt, if he thinks that the dread of similar disgrace will more strongly impress the traveller with abhorrence of the crime than the apprehension of corporal chastisement.

The idea of inflicting punishment by way of indemnification, or in lieu of it, is too absurd to merit much attention. Punishment, as such, can never constitute indemnification; inflicted with this view it must be nugatory; it would therefore be an unauthorised violation of the rights of another.

Since the right of punishment appears originally to be merely a branch of the right of defence against an aggressor, it follows, from what was proved in the discussion of this right, that it may be exercised, if necessary, by any individual, on behalf of another against whom an unjust attack is intended, whenever the assistance

assistance of the former is naturally due to the latter, or desired by him; and whenever the former apprehends that the defence of the latter is necessary for his own present or future security. It is also the duty of every man in the sight of God to exert the right of punishment, or to forbear from exercising it, in any particular instance, according as he is persuaded that such exertion or forbearance will most effectually promote the great purposes of his being. And in forming his judgment on these points, as well as in determining the mode of punishment to be adopted, it is his duty to consult the ends for which the aggressor was created, as far as is consistent with the other considerations, which he is to take into the account.

C H A P. VIII.

ON SLAVERY.

By slavery I mean the condition of a person who is compelled to labour at the will of another, without any previous contract.

Agreeably to natural justice, an individual may be reduced by force to this condition on two accounts :

1st : For Indemnification.

2dly : For Punishment.

The causes which may entitle one man to force another into slavery, for the sake of indemnification or punishment, and the circumstances which should determine him to exert or to wave his right, have already been discussed in the two preceding chapters. The slavery, in these cases, must cease, as soon as the just purposes for which it was imposed

are obtained. Until these are accomplished, the right of the imposer remains unaltered; and the exercise of it, during the whole or any part of its continuance, may be transferred by him to any other person.

He, who has taken his enemy captive in a conflict, has no right on that account to doom him to slavery. It is idle to say that he might take the life of his conquered antagonist, and is therefore merciful in exacting only his labour. Let him establish the premises before he deduces the conclusion. All that he can claim from his captive is reparation for past injuries, and security against future violence. If it be necessary for the attainment of either of these ends that the latter should be enslaved, he may then, and then only, be enslaved consistently with justice.

In no case has the master a right to the labour of the guiltless family of the slave, further than the slave is himself entitled to exact it. Whatever right the slave may possess to the services of his children is liable, like any other of his rights, to be claimed and exercised by the master, as far as he finds that

that measure necessary for securing the just purposes of punishment and indemnification; but the right of the master over each child terminates as soon as that child attains to such an age as no longer to be subjected by nature to the dominion of his parent.

This reasoning applies with equal force to children born during the slavery of their parents. The master cannot derive from the latter more extensive or more permanent rights than they themselves possess over their offspring.

If the master, shifting the ground of argument, pleads that he has maintained the child from infancy to manhood, and not from gratuitous charity, but with a view to his own advantage; let him be reminded, that he has received in return the labour of the other during that period. But he replies, that “ the
 “ labour has been an inadequate return; and
 “ that he has at least a right to exact the services of the child when grown up, until he
 “ has obtained a reasonable indemnification;
 “ for the infant having no prospect of being
 “ supported by any other person, it must be
 “ presumed that, had he been able, he would
 H “ gladly

“ gladly have consented to secure a maintenance on the terms of making an equitable compensation when he should have it in his power.’ Why does not the master assert, that the other, had he been able, would have consented to secure his existence on *any* terms, and claim a right to detain him in *perpetual* bondage? Why does he not affirm that he has a right to enslave any man whom he has saved from drowning? No consent was or could be given in either case, nor any right conveyed. Whatever debt of gratitude may have been incurred, that is not to be recovered by compulsion. In each of these instances one of the most indispensable duties, which a human being can owe to his Maker, has been performed; and, although the performance should meet with no return in this world, yet, if it arose from proper motives, it will not pass without a final reward.

C H A P. IX.

ON PROPERTY.

It has already been proved that every man has originally a right, by the gift of God, to such a portion of the unappropriated productions of the earth as is necessary for his comfortable subsistence.

The first and most obvious exercise of this right would be the acquisition of food, of shelter, and of clothing. To this would succeed the fabrication of rude utensils and weapons.

The right however extends beyond the bare productions of the soil. The earth itself, together with its productions, forms one common stock for the benefit of mankind, any unappropriated part of which may be seized by each individual for his own exclusive possession, so long as that exclusive possession is requisite for his comfortable subsistence. The same

wants, which, in consequence of being an evidence of the will of God, convey to any one a title to a certain portion of the fruits of the earth, in like manner give him a title to a certain portion of the earth itself. He has the same incontestable right to the unmolested enjoyment of the spot of ground, which he has covered with his tent, with his grain, or with his flocks, as he has to the spot on which he is standing, or to that on which he lies asleep.

He, therefore, who, in consequence of these wants, has taken possession of a vacant cavern for his habitation, and the adjoining unoccupied hill for the pasturage of his cattle, has authority from God to defend them against every aggressor. But the right which necessity creates necessity limits. He has no claim to a greater extent of land than is requisite for the comfortable subsistence of himself, and of the family, the flocks and herds, which God has given to him. If a savage, before America was inhabited, had been driven in his canoe from Tartary to Cape Horn, he would have had an indubitable right to the exclusive possession of such a district round his hut as was
 necessary

neceſſary for his ſupport; but he would have had no right to object to future ſtrangers ſettling on a diſtant part of the coaſt, on the plea that he ſtood in need of the whole continent for his hunting ground.

The cavern however, and the hill, the flocks, and the utenſils, and whatever other articles of property had not been previously transferred by gift to ſome other, and become his actual right, muſt revert, on the dereliſtion or death of the owner, to the common ſtock, and be open to the next occupant. The former poſſeſſor's right was founded on his need, and extended only to the uſe of them; this need and this uſe cannot be prolonged beyond the term of his life; and he cannot convey a right to another, either by will or in any other method, beyond the period when that right neceſſarily terminates.

Mr. Paley and other moraliſts contend that thoſe moveables, which are the produce of a man's perſonal labour, as his tools, weapons, &c. may originally be diſpoſed of by will, becauſe the owner has employed his own

H 3 labour

labour upon them^a, and has inseparably mixed it with them^b, thereby giving them a great increase of value, which increase is inseparable from and makes a great part of the whole value.

The foregoing reasoning, notwithstanding the respectable names by which it is sanctioned, appears to rest on unsubstantial foundations. No man can prove any just title originally to appropriate to himself, either flocks, herds, and fruits, or any productions of the earth (as the materials whereof his weapons, utensils, and other moveables, may be formed), nor consequently to retain them afterwards, whatever alteration he may have wrought in them by his labour, except the right which arises from their being necessary for his comfortable subsistence; a right which is inevitably extinguished by his death.

If the arguments, by which Mr. Paley maintains that an individual has a natural right to dispose of his moveables by will, possessed any real force, they would prove him to have the same right to bequeath land, which he has reclaimed from barrenness to fertility. And,

^a Paley, Vol. I. P. 221. ^b Vol. I. P. 115, 116.

in fact, Mr. Paley maintains that land ^c under these circumstances becomes the property of the cultivator as absolutely as the utensils are which he has manufactured. He adds, that the individual, who thus improves it, does not thereby acquire a right to it in perpetuity, and after this cultivation and all its effects are ceased. It follows however, according to his statement, that the improver may by will convey to another a right over it for the period during which the effects of his labour shall continue. Yet in a subsequent ^d chapter he proceeds

^c Vol. I. P. 116.

^d P. 222.—Mr. Paley argues on this subject nearly in the manner which I have adopted—that “ in a state of nature a man’s right to a particular spot of ground arises from his using it and wanting it, consequently ceases with the use and want; so that at his death the estate reverts to the community, without any regard to the last owner’s will.” Yet these are arguments to which Mr. Paley can give no weight consistently with his fundamental principle. He ought to have confined his researches to the single point, whether the existence of the power of bequeathing land in a state of nature would, or would not, promote the happiness of mankind. If this question be determined in the affirmative, he must maintain the existence of the right, in defiance of the arguments on which he has disproved it.

It is to be observed that, in asserting the right of be-

H 4

queathing

proceeds to establish the opposite conclusion, and to establish it on principles which admit of no exception, that land previous to the institution of civil society cannot be disposed of by testamentary bequest.

The principles which have been deduced in the present treatise oblige me to deny the existence of a right, which Mr. Paley, in common with other moralists, has supported; I mean the right of extreme necessity. This he defines to be “ a right to use or destroy
“ another’s property, when it is necessary for
“ our own preservation to do so.” And as an instance of it he mentions “ a right to
“ take, without or against the owner’s leave,
“ the first food, clothes, or shelter, we meet
“ with, when we are in danger of perishing
“ through want of them.” And he asserts it to be “ a general right, as it is incidental

queathing moveables, Mr. Paley pays no more attention to general expediency than he has done in disproving the right of bequeathing lands. The reader, who has perused his work attentively, will have perceived that it is not uncommon with him totally to lose sight of his fundamental principle, and to argue on other and less fallacious grounds.

* Page 102.

“ to every man who is in a situation to
 “ claim it.”

In the first place, I must observe that Mr. Paley has adduced no arguments to prove the only fact, which, according to his fundamental position, can demonstrate the existence of the right; namely, that arming every man with authority to deprive another of his property, whenever he imagines that property to be necessary for his preservation, would promote the happiness of mankind. How would it appear, were we to argue on his own principle of expediency, that this is a case “ in which
 “ the particular consequence exceeds the ge-
 “ neral consequence,” and that “ the ^f remote
 “ mischief resulting from the violation of the
 “ general rule is overbalanced by the imme-
 “ diate advantage?”

In the next place, I may be allowed to ask for the preservation of *what* particular objects may this right be exercised? Not merely of

^f I have already quoted Mr. Paley’s preliminary observation, that, “ in computing consequences, it makes no difference in what manner or *at what distance* they ensue.”

life,

life, but of property also; for Mr. Paley authorises every man on *this* principle^s to pull down a neighbour's house against his consent, to stop the progress of a fire: for the security then of what kinds of property may it not be exercised? Much more may not any man exercise it for the security of what is dearer than property, his health; of what is dearer than life, his good name? May not he forcibly possess himself of the house of another, should he be persuaded that his desire for it, if it be not gratified, will bring upon him death, or delirium, or melancholy? May he not seize his neighbour's purse, that he may be enabled to silence a venal calumniator, who threatens to ruin his character? In short, if the principle be admitted in any one instance, where is the line to be drawn?

“ The foundation of the right,” Mr. Paley says, “ seems to be this; that, when property
 “ was first instituted, the institution was not
 “ *intended* to operate to the destruction of any;
 “ therefore, when such consequences would
 “ follow, all regard to it is superseded.” The insufficiency of this mode of reasoning will ap-

pear by an application of it to other instances. The right to defend ourselves, with which we are endowed, was not *intended* to operate to the destruction of any. Is it therefore never to be permitted so to operate? The institution of municipal laws was intended for the *benefit* of every member of the society, and not for the destruction of any; when therefore such consequences would follow, is all regard to it superseded?

That no such right as that of extreme necessity can exist has already been shewn. It has been proved, in the discussion of the third proposition, that no man has a right to deprive another of his property, or to restrain him in the enjoyment of it, without his consent having been previously given, unless the latter has invaded, or shewn a design to invade, the rights of the former, or of some person under his protection.

The positions which have been maintained in this chapter, and in the three preceding chapters on Indemnification, Punishment, and Slavery, are strictly applicable to the proceedings

ings between independent states. The various modifications which these rules undergo, when applied to proceedings between members of the same community, arise from the peculiar rights and obligations of governors and subjects, which will be briefly investigated in a subsequent chapter of this treatise.

C H A P. X.

ON ENGAGEMENTS.

A PROMISE is not a mere declaration of an intention; it is an engagement to the promisee that the promiser will act in the manner specified.

Consent understood to be given and accepted constitutes a promise; but less than this will not constitute one. If the promisee refuse to accept the right which the other offers to him, matters remain as they were before the offer was made. Promises then do not exist before acceptance, and consequently are not binding.

The obligation to perform a promise, or any other engagement, is a branch of the general obligation not to infringe without just cause the rights of another. When an individual by any engagement has transferred to his neighbour one of the gifts which God has
bestowed

bestowed upon him, the latter has the same right to it which the original proprietor had before the transfer; and if it be withheld from him he has the same right to use force for the recovery of it as for the recovery of any other article of his property. This reasoning is equally valid, whatever be the subject of the engagement.

If a traveller ask a shepherd the road to the place whither he is journeying, the latter is not originally under any obligation to the inquirer (whatever may be his duty in the sight of God) to communicate information. His knowledge is his own, and he may impart or withhold it at his discretion. The traveller requests him to impart it. If the shepherd returns such an answer as he knows the former will consider as an assent to his request, that is, as a direct or implied promise that he shall be put in possession of the knowledge in question, this knowledge is now become the actual property of the traveller; and he has the same right to use force, if force be necessary, for the purpose of obtaining it from the other, as he would have to obtain the delivery of a lamb which the shepherd had promised
to

to him, or the restitution of a horse of which he had robbed him. The foregoing reasoning is not affected by the manner in which an engagement is contracted. The obligation to performance rests on every person who has contracted an engagement, whether it were expressed or implied, whether entered into by words or actions.

The shepherd might enter into an implied engagement to give the traveller right directions by wilfully directing him wrong; for he would know that the traveller would understand *any* directions not palpably absurd as an assent to his request. He might convey a promise by a nod as intelligibly as by the most positive assurances.

But the promiser is not bound to those to whom he could not be supposed to mean to engage himself. The strongest assurances given to the traveller would not lay the shepherd under any obligation of shewing the road to a listener, whom he did not know to be at hand, or did not mean to address.

“ Where

“ Where the terms of a promise admit of
 “ more senses than one, the promise is to be
 “ performed in that sense in which the pro-
 “ mifer apprehended at the time that the
 “ promisee received it.”

This^a is Mr. Paley’s rule for the interpretation of promises; and it is very just. He proves it in the following manner.

“ It is not the sense, in which the promiser
 “ actually intended it, that always governs the
 “ interpretation of an equivocal promise; be-
 “ cause at that rate you might excite expect-
 “ ations which you never meant, nor would
 “ be obliged, to satisfy. Much less is it the
 “ sense in which the promisee actually
 “ received the promise; for according to that
 “ rule you might be drawn into engagements
 “ which you never designed to undertake.
 “ It must therefore be the sense (for there is
 “ no other remaining) in which the promiser
 “ believed that the promisee accepted his
 “ promise.”

^a Paley, Vol. I. P. 125.

For the satisfaction of any reader who may wish for a demonstration of the truth of the rule from first principles, the following is subjoined.

Consent, understood to be expressed by one party and to be accepted by the other, constitutes a promise. The promiser, therefore, is bound to fulfil what he meant to express and believed to be accepted; and the promisee has a right to claim what he meant to accept and believed to be expressed. If either of them apprehended that the other party had a different meaning from himself, but did not intimate his doubts and come to an explanation, he is bound to adhere to that different meaning; for by his silence he implied acquiescence in it. So that, in fact, the promiser is bound to fulfil what he believed to be accepted, and the promisee to claim no more than he believed to be expressed.

In certain cases promises are not binding.

1st: Where the promiser or the promisee is not a moral agent.

For under those circumstances the one cannot convey, nor the other acquire, any right:

Thus the promises of infants, idiots, and lunatics, are naturally void.

So are the promises of a drunken man, if at the time of making them he was so far overpowered by intoxication as to be no longer a moral agent; but not otherwise. Whether he was a moral agent or not, must be determined from particular facts; in the same manner as you would ascertain the degree of mental disorder which constitutes madness.

Perhaps it may be said, that the drunken man, although not a moral agent, is answerable notwithstanding for his actions in that state; having reduced himself to it by his own voluntary act. That argument, if it had any force, would apply equally to the cases of such idiots and lunatics as have brought their incapacity on themselves by their own misconduct; by the gratification of intemperance, or through the excess of passion. It is not, however, applicable in any of these cases.

Although

Although every man who deprives himself of reason is answerable to God, yet if he be in fact, through whatever cause, no longer a moral agent, he is unable to convey any right; and what he cannot convey, the promisee cannot acquire from his consent.

In the preceding instances the promiser has been supposed not a moral agent; the rule would have appeared equally applicable had the promisee been represented in that situation.

2dly: Promises are not binding, when an express or implied condition, on which they are understood by both parties to be founded, fails without the fault of the promiser.

For the terms are not fulfilled on which alone the promise was to have existence.

Thus if a person undertakes to assist another, avowedly supposing him to be unjustly attacked, he is released from his promise, if he discovers the promisee to be the aggressor.

In contracts, which are mutual promises, if one party fails in the performance of his

engagement, the other is released; unless there was some previous stipulation to the contrary.

If the promiser be previously apprised of the failure of the condition, or wilfully occasion it, he violates his engagement, and may be compelled to make satisfaction.

These rules will be illustrated by a consideration of the case of promises, the performance of which is impossible.

Such promises are evidently not binding: for the possibility of performance is the only supposition on which the promise could be understood or accepted; and of course was a condition of the promise.

But if the promiser was privately aware of the impossibility when he made the promise; as if he engaged to put a tenant into immediate possession of a farm which he knew was under lease to another; or if he afterwards occasioned it, as by causing his daughter, after he had promised her in marriage to one person, to be united to a different man; the promisee
has

has a right to compensation for the loss which he sustains by the non-performance : for in each case he acquired a right to the thing promised, and in each case the disappointment of his just claim, and the consequent injury which he receives, is owing to the wilful fault of the promiser.

3dly : Promises are not binding, the performance of which would be unjust, that is, would be an unauthorised infringement of the rights of a third person.

For the promiser cannot convey a right which is not his to dispose of; and consequently the promisee cannot acquire it.

If both parties were aware of the injustice of performance at the time when they entered into the engagement, the case is clear; neither of them can have a doubt of the promise being void; nor is the promiser bound to indemnify the other, as a right could never be supposed to be conveyed to him.

If both parties were, as far as appears, unapprised, at the time of engaging, of any

injustice attending the performance, the promisee, on this injustice being discovered, (whether it did or did not exist when the promise was made) has no claim to indemnification : for all engagements, where nothing appears to the contrary, must be understood to have proceeded on the supposition, that is, on the implied condition, of the performance being compatible with justice.

But if the promiser has wilfully occasioned the injustice of performance; or if he was privately aware of it at the time of making the engagement, and the promisee was ignorant of it; in either case he is liable to a just demand of compensation: for by his promise he engaged to put the other party in possession of the matter in question, and is bound to make reparation for the disappointment and injury which he has wilfully occasioned.

The reasoning which has been stated on the subject of promises, the performance of which is unjust, fully applies to promises which contradict a former valid engagement. For the right pretended to be conveyed by the subsequent

subsequent promise was already transferred to another person by the former.

Mr. Paley ^b affirms, that the performance of a promise is unlawful, when it would be inconsistent with what he terms an *imperfect* obligation. It would not be a difficult undertaking to prove this rule to be erroneous in its principle^c; and to shew that it has led, and must lead Mr. Paley, to conclusions the reverse of those which he has maintained on other grounds: but as the difference between the kinds of obligations which moralists have denominated perfect and imperfect, has not yet been specifically discussed in the present treatise, (nor would this be a fit place for the discussion) I shall only observe that, if the rule were true, no reliance could be placed on any engagement. The promiser would very

^b Page 132.

^c See particularly the instance of promising a person your vote (p. 132), which Mr. Paley adduces as an example of an imperfect obligation; and compare it with his observations on the same instance, p. 138. How can these decisions be reconciled, since Mr. Paley admits, p. 92, that you are always under an imperfect obligation to give your vote to the better candidate?

frequently discover some imperfect obligation which would be violated by the performance ; and in every case he would be able to feign such a discovery, without being liable to confutation.

I apprehend that other errors have been admitted into Mr. Paley's chapters on promises, and on lies, important enough to merit particular notice,

Mr. Paley affirms^d that “ a promise cannot
 “ be deemed unlawful, where it produces
 “ when performed no effect beyond what
 “ would have taken place had the promise
 “ never been made.”

As he^e advances no argument in support of this rule (and surely it is not self-evident),
 it

^d Page 134.

^e Perhaps Mr. Paley argued in his own mind that such a promise is lawful, because the performance occasions no injury to any one which would not otherwise have taken place ; and therefore is not repugnant to general expediency. The topic of general expediency has been fully considered in the preceding pages.

it will be sufficient to prove it erroneous by an example. An assassin determines to kill a certain individual; he is afterwards desired by another to murder the same man, and engages to do it: according to the foregoing rule his promise is lawful, for he would have committed the murder if he had not made it. Or, let us suppose an instance somewhat less atrocious. A tyrant issues orders for the execution of an unconvicted prisoner, whose only crime has been a determined support of the liberties of his country: by Mr. Paley's rule, if a person ever so conscious of the innocence of the sufferer were to undertake to become the executioner of the usurper's vengeance, his engagement would be lawful. But are not these conclusions as repugnant to Mr. Paley's

The rule not being just, Mr. Paley's subsequent reasoning deduced from it, that "in this case the obligation of a promise will justify a conduct, which unless it had been promised would be unjust," falls to the ground. In no case will a promise bind any one to be guilty of a breach of justice, or vindicate the action.

The right of the captive, in Mr. Paley's instance, to regain his freedom by a promise of neutrality, arises from these circumstances; that the laws of nature and of his country leave him at liberty to enter into such an engagement if he thinks fit.

previous reasoning on unlawful promises, as they are to the principles which have been maintained in my present chapter ?

Mr. Paley also affirms^f that “ falsehoods are
 “ not lies, that is, are not criminal, where
 “ the^g person to whom you speak has no
 “ right to know the truth ; or, more properly,
 “ when little or no inconvenience results
 “ from the want of confidence.”

Both these rules appear to me destitute of any solid foundation.

In reply to the first it may be remarked, that if the person who has no right to know the truth is a moral agent, and you answer him in such a way as you think will lead him to conclude that you mean to impart to him the desired information, you *give* him a right to it ; and you are guilty of a breach of promise, that is (according to Mr. Paley’s definition) of a lie, if you do not communicate it : for, to proceed in his own words, “ who-

^f Page 184.

^g Page 185.

“ ever ^h seriously addresses his discourse to
 “ another, tacitly promises to speak the truth,
 “ because he knows that the truth is ex-
 “ pected.”

The second rule would authorise every man to lie at his own discretion. It is founded on general expediency, a principle which has been already refutedⁱ.

The practice of deceiving an enemy by feints, false colours, spies, and false intelligence, is justified according to Mr. Paley by the preceding rule. Without entering into particulars it may be observed, that the only stratagems which can be employed against an enemy, consistently with natural justice, are such as do not involve an express or implied promise of sincerity.

Extorted promises are binding.

^h “ A lie is a breach of promise.” Paley, Vol. I. Page 184.

ⁱ Mr. Paley’s decision under this rule, that you may tell a lie to a robber or an assassin to save your property or your life, cannot easily be reconciled with his doubts, p. 149, whether a promise extorted by them is binding.

This

This point has long been contested among moralists. To argue it fairly, we must suppose that the extorted promises are not such as would be void, if they were voluntary.

On what plea then is an exemption from the general obligation of performance claimed for him whose engagement was extorted?

1st: It is claimed, because the promiser entered into the engagement in consequence of violent constraint and apprehension.

By our previous supposition the promiser was a moral agent, capable of choosing and adopting either of the alternatives offered to him. How then did the force and apprehension affect him? They laid a strong bias on his will, and set before him a powerful temptation to make the promise. And does this render the promise void? If you affirm that it does, you must affirm the same in every case in which the promiser is under an inducement equally strong, arising from persuasion, or from interest, or from passion; for, provided the bias be laid on his will, and the temptation be set before him, it is of no more consequence

consequence to the argument by what means this is effected, than it is whether the assailant in the present case attacked him with a sword or a club. And, since it is impossible to assign a reason why any particular degree of bias is the lowest which exempts a moral agent from the obligation of performance, you must ultimately maintain that every promise, contracted in consequence of any the most trifling inducement, is void; in other words, you must maintain that no man ever was bound, or ever will be bound, to perform any promise whatever.

2d : But the promiser, it is contended, notwithstanding his outward actions, did not give his mental consent. His mental reservations, which did not appear, were as immaterial to the validity of the promise as if they had never existed. He knew that every thing was done which constitutes a promise^k ;
he

^k Dr. Ferguson (Institutes of Moral Philosophy, 2d ed. p. 189.) contends, that an extorted promise is not binding, because the promisee could not have a reasonable expectation of its performance being intended. Surely he did expect it to be performed, or why was he at the trouble
of

he knew that his consent was understood to be given, and that it was accepted by the other party. On the present plea, any voluntary engagement might be evaded, and any gift reclaimed. The promise under consideration was substantially made; why is it not faithfully performed?

3d: The promiser, it is finally asserted, is exempted from the obligation of performance by the principles which have been established in the preceding chapters: for it has there been proved, that every man has authority from God to attack any of the rights of an aggressor as far as self-defence requires. The promiser therefore, even if he admits the other party to have acquired a right through his engagement, may deprive him of this right, by withholding from the first the thing promised, or by forcibly reclaiming it if delivered; either the former¹ step being requisite for his

of exacting it? Whether his expectations were reasonable or not, is a matter of no consequence; since they were known to the other party, who by his promise engaged to satisfy them.

¹ Dr. Ferguson (p. 189, 2d edit.) alleges an argument of this kind.

self-defence,

self-defence, or the latter for his indemnification.

To this reasoning, which at first sight appears plausible, the following answer may be returned.

The promiser, it is granted, may attack, if necessity requires, any of the rights of the aggressor in self-defence; that is, in defence of any thing which is his own actual right at the time. But the thing which he has promised is no longer his right; he has made it the right of the promisee by his own transfer: previous to that transfer he might withhold it if demanded, or reclaim it if taken from him; but afterwards he has no more title to it than he has to any article of property belonging to any other person; and consequently has no pretence for detaining it on the plea of self-defence, nor for resuming it on the ground of indemnification ^m.

^m I am aware that I shall incur the charge of disorderly arrangement, by subjoining, to an inquiry into the nature of engagements in general, observations relating to a particular engagement, instituted in a particular country. Yet, as it is undeniably of great importance that just sentiments

ments should be entertained respecting the meaning of subscription to the thirty-nine articles, and as the opinion which Mr. Paley maintains on the subject appears to me not only unsupported by argument but likely to be productive of consequences highly pernicious, I trust the reader will pardon this deviation from the strictness of method.

Mr. Paley, having previously observed that the “*animus imponentis*” indicates the sense in which the articles are to be subscribed, affirms, p. 219, that “the legislature of the 13th Eliz. is the imposer.”

The latter remark seems fundamentally erroneous.

The *present* legislature of this country, which by forbearing to exercise its acknowledged power of repealing the act of 13th Eliz. sanctions and enforces that act, is the imposer of subscription on the existing generation; and it is consequently the intention of the present legislature which the subscriber is bound to satisfy.

That subscription may be justified without an actual belief of each of the articles, as I understand Mr. Paley afterwards to intimate, is a gratuitous assumption. On this point the articles speak for themselves: Why is an article continued in its place if it be not meant to be believed? If one may be signed without being believed, why may not all? By what criterion are we to distinguish those which may be subscribed by a person who thinks them false, from those which may not? Is not the present mode of subscription virtually the same as if each article were separately offered to the subscriber? And in that case could any man be justified in subscribing one which he disbelieved?

No circumstance could have a more direct tendency to ensnare the consciences of the clergy, no circumstance could

could afford the enemies of the established church a more advantageous occasion of charging her ministers with insincerity, than the admission of the opinion that the articles may safely be subscribed without a conviction of their truth, taken severally as well as collectively. That opinion I have seen maintained in publications of inferior note; but I could not without particular surprise and concern behold it avowed by a writer of such authority as Mr. Paley.

If the terms, in which any of the articles are expressed, may be fairly interpreted in more senses than one; and if it be a known fact, that the generality of subscribers concur in one particular interpretation; that interpretation, especially if it has for some time been usually received, may be deemed to be one of the senses, if not the exclusive sense, in which assent is required by the legislature; for, if it were not, the legislature, it may be presumed, would have altered the articles, or pointed out the precise meaning in which it designed them to be understood.

C H A P. XI.

GENERAL REVIEW OF THE NATURAL RIGHTS AND
OBLIGATIONS OF MEN.

It has been stated heretofore, that by a right I mean authority from God for the enjoyment of any particular thing, or for the performance of any particular action.

It was also observed that the term right is occasionally used, in compliance with custom, to denote the object of a right; as when it is said that life is one of the rights of man.

By natural rights are meant those rights which an individual possesses independent of the institution of civil society.

These rights, for the sake of perspicuity, I shall here enumerate, referring to the preceding chapters for particular information respecting each.

Every

Every individual naturally possesses

A right to life.

A right to freedom from personal injury and from personal restraint.

A right to appropriate to himself such a portion of the unappropriated productions of the earth, and such a portion of unappropriated land, as is necessary for his comfortable subsistence. The scriptures give him an equal right over animals.

A right to accept from others, and appropriate to himself, such rights as they have the power of transferring to him.

A right to defend any of his rights from an aggressor by the use of all requisite force against him; either by resisting his attacks, or by making the first attack upon him; or by imposing restraints and punishments on him; so

far, and so far only, as is necessary for such defence.

A right, in cases of injury, to exact restitution, or indemnification, from the aggressor, by the use of all necessary force against him.

Lastly: A right to waive, to abridge, or to alienate, any of his rights at his own discretion; except such as he may himself have acquired under an express or implied condition to the contrary.

Right and obligation are correlative terms. Wherever any individual has a right, all others are under an obligation not to make an unjust attack upon it. In every such case they are under a special obligation both to God and the owner of the right; for God has a right to obedience, and the owner to freedom from injury. With respect to the exercise and disposal of his own rights, in such a manner as may best promote the purposes of his being, each individual is under an obligation to God alone.

No

No circumstance has more materially contributed to introduce confusion into moral reasoning than the various and even hostile significations of the word right. Not in conversation only; but, in books of repute, expressions like the following are common—
 “ It is right that you should relieve a
 “ beggar;”—“ I have a right to refuse, if I
 “ think fit;”—“ The Almighty has a right
 “ to your constant obedience;”—“ I have a
 “ right to squander away my estate, though
 “ I know it will displease him.” One principal source of these inconsistencies has been the injudicious practice of moralists, in dividing rights into two kinds, which they have termed perfect and imperfect. This division I have rejected on account of its radical inaccuracy. Under the title perfect, all rights whatever were in fact comprehended. Those denominated imperfect, were not rights, according to any consistent definition of that term. If I were told by a moral philosopher that a person in distress had a right to my charity, I should admit that he might have good reasons for presuming that I should relieve him; because he might reasonably expect that I should cheerfully employ the

gifts which God had bestowed upon me, in a manner so conformable to the will of the donor; but I should deny that he had a *right* to that assistance from me which my Creator, when he constituted me a moral agent, gave me power to confer or to withhold at my discretion; a power, for the due exercise of which I am answerable to him alone.

The same argument would apply with equal force to all other *reasonable expectations*; which have been erroneously termed imperfect rights.

The introduction of imperfect rights was necessarily followed by a train of imperfect obligations. These rest on the same unsubstantial foundation with the supposed rights to which they correspond. Thus, I am under no obligation to a beggar to relieve him, because he has no right to my assistance. I am under an obligation to God to relieve the other, if I think upon the whole that it is the divine will that I should; because God has a right to my obedience. But this is a point which I am to decide for myself; and, in making the decision, it is my own conscience alone,

alone, and not the beggar's expectations, which I am bound to satisfy.

Mr. Paley adopts the division of rights and obligations into perfect and imperfect, though apparently against his better judgment.^a—He also affirms, in conformity to his general principle, that “perfect rights can only be distinguished by their value^b.” It should seem, according to this position, that a candidate at an election, who thinks the possession of the vacant seat as valuable to him as one of his estates, has as perfect a right to the former as he has to the latter. If this and other necessary consequences of the rule should be contradicted by some parts of Mr. Paley's work, that circumstance, far from obviating the arguments against the rule itself, will only shew at what opposite conclusions the most acute reasoner will arrive, who takes general expediency for his guide.

^a Paley Vol. I. Page 91.

^b Vol. II. Page 3.

P A R T III.

APPLICATION OF THE PRINCIPLES WHICH
HAVE BEEN ESTABLISHED TO THE CON-
STITUTION OF CIVIL SOCIETY.

C H A P. I.

THE TRUE GROUNDS OF CIVIL OBEDIENCE EXPLAINED.—
ERRONEOUS NOTIONS REFUTED.

W HATEVER opinions may have been prevalent under the reign of the Stuarts, I apprehend that no intelligent Englishman, who shall have perused Mr. Paley's very satisfactory chapter "on the duty of Civil Obedience as stated in the Christian Scriptures," will hesitate to admit that author's conclusion: "That, as to the extent of our civil rights and obligations, Christianity hath left us where she found us; that she hath neither altered nor ascertained it; that the new Testament contains not one passage which, fairly interpreted, affords either argument
" or

“ or objection applicable to any conclusions
 “ upon the subject, that are deduced from
 “ the law and religion of Nature.”

This fundamental point being determined,
 I must recall the reader's attention to a proposition, the truth of which has already been proved: “ That in no cases except the
 “ following is any person authorised to de-
 “ prive another of his natural rights, or to
 “ restrain him in the enjoyment of them.”

1st: When he proceeds to such deprivation or restraint in consequence of immediate inspiration from God.

2ndly: Or in consequence of their being necessary for the defence of himself, or of some person under his protection, against the unauthorised attempts of another party.

3dly: Or in consequence of the consent of the individual thus deprived or restrained^a.

^a See Part II. Chap. III.

Since there is no apparent probability that, in the present period of the world, inspiration will take place respecting the circumstances which form the subject of this inquiry; and since, if it should ever be proved to have taken place, the only line of conduct to be adopted would be implicit submission; the first of the preceding cases does not require further illustration.

The force, exercised in consequence of the necessity stated in the second case, is justifiable only to the extent and during the continuance of that necessity. Situations may possibly arise in which, on the plea of this necessity, an aggressor may be compelled by his opponent to enter into civil society with him, or a conquered country to connect itself with the victorious state. Yet in such cases the consent of the vanquished, though extorted, is the circumstance which lays them under the social obligation; for it was in their option either to endure extremities, or to submit^b.

^b All aggressors are under an obligation to submit to such restraints as the other party has a right to impose in self-defence. But this obligation is perfectly distinct from that which results from social union.

Therefore

Therefore the only just foundation of civil government is the consent of the governed.

As this conclusion immediately and uncontestedly follows from principles, the validity of which has been established in the preceding pages, it cannot be necessary to enter into a prolix refutation of the various unsubstantial pleas on which governors, in different ages and different parts of the world, have rested their claim to dominion. Yet, on account of the importance of the subject, it may not be useless to return a short and distinct answer to such of those pleas as have been most commonly maintained in theory or in practice.

If the governor, like an Eastern monarch, rests his claim on the superior dignity of his own nature, and thence infers that he has a right to compel his fellow-creatures to obey, for the purpose of promoting either his happiness or their own; what reply shall we give to an argument, which, if it were solid, would authorise every man to enslave his less enlightened neighbour, and would justify a Newton in seizing the sovereignty of the world? We may recur to that train of reasoning,

reasoning, by which it has been already proved that no man would be authoris'd, on the plea of promoting the happiness either of himself or of another, even if the object could certainly be attained, forcibly to restrain an unoffending individual in the exercise of his natural lights.

Should assumed dominion be vindicated on the grounds of general expediency, the ground on which Mr. Paley founds every right of the civil governor, I shall only observe that, if this plea has not already been abundantly overthrown, I must despair of alleging any satisfactory argument on^c the subject.

Perhaps the claim is rested on the ground of conquest or captivity. If the war was not undertaken by the victors either in the just defence of themselves, or of others under their protection, it was an unauthoris'd attack on their opponents; and success in such an attack gives the conqueror no right to restrain his vanquish'd or captive antagonist

^c See Part II. Chap. III,

against

against his will. If the latter, presented only with a choice of evils, agrees to acknowledge the authority of his too fortunate enemy, the governor has then acquired a right to enforce submission ; but he has acquired it from the consent of his subject. Until that consent is expressly or impliedly given, the pretended sovereign is an usurper ; and has no better title to the fruits of his conquest than an highwayman has to his booty. If the war was originally just, the conqueror has a right to exercise dominion over the defeated party, so far as is necessary to ensure to himself indemnification for the injuries which he has sustained, and security from any further violence which he believes to be meditated. After the attainment of these purposes, consent alone can authorise the continuance of his jurisdiction, and invest him with civil authority.

But perhaps the governor grounds his claim to sovereignty on the single circumstance of the individual, whose obedience he requires, having been born within his territories. In this enlightened part of Europe he cannot
mean

mean to have the claim understood according to the exploded notions of feudal vassalage. He cannot mean to imply that man is attached, like a tree, to the spot of land on which he is originally placed; that he is an appendage inseparable from the soil, and necessarily subject to the same restrictions. He must confess that God has bestowed upon every man certain natural rights, in whatever region he may chance to pass the first moments of his existence; and must explain his claim to imply, that the constitution of the country entitles him to allegiance from every person born within the limits of its jurisdiction. How then has the individual in question lost his natural right to freedom? Has he forfeited it by his crimes? That is not pretended; the claim of allegiance embraces alike the innocent and the guilty.—In what manner therefore have the constitution and laws of the country acquired authority to control his original rights? These rights, until he arrived at such an age as to be justly deemed a moral agent, may have been at the disposal of his parents or protectors: when that period is arrived are they
 3 not

not absolutely his own by the gift of God? By the gift of God they are absolutely his own; and, as long as he abstains from invading the rights of others, no person whatever can claim any jurisdiction over him, until it be sanctioned by his express or implied consent.

C H A P. II.

ORIGIN OF CIVIL GOVERNMENT.

“ GOVERNMENT at first was either patriarchal or military ; that of a parent over his family, or of a commander over his fellow-warriors ^a. ”

Were I to undertake the defence and illustration of this position stated by Mr. Paley, I could not accomplish my design in any method so effectual, as by transcribing his own very accurate discussion of the subject. I will not, by abridging his remarks, exhibit them to disadvantage ; nor should I dwell longer on this topic, were it not for the purpose of shewing that the rights of civil government appear from Mr. Paley’s account of their origin (however unfavourable to his own system that appearance may be) to have been established on consent alone.

^a Paley, Vol. II. P. III.

Having alluded to the rights which parents naturally possess over their children, previously to their arrival at years of discretion, Mr. Paley observes, that “ a parent ^b would retain “ a considerable part of his authority after “ his children were grown up, and had “ formed families of their own. The obedience, of which they remembered not the beginning, would be considered as natural; and would scarcely during the parent’s life be entirely or abruptly withdrawn.” These words imply that the children, when grown up, were at liberty to withdraw their obedience, had they thought proper to take this step. And this inference is confirmed by Mr. Paley’s observations on the rights and duties of parents in another part of his work; wherein he proves that the former owe their origin and validity to the latter; and that the right of coercion exists no longer than it is necessary for the purpose of enabling the parent to ensure the welfare of his child, as yet too young to provide for himself. When therefore that period is elapsed, all further subjection on the part of the child must be voluntary.

^b Page 112. Vol. II.

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That

That the successor of the parent derives his authority solely from the consent of the other members of the society, Mr. Paley evidently allows; since he describes him as ^c appointed to his office by their own “formal choice,” or by a “willing transfer” of their obedience, encouraged perhaps by motives of respect for their first ancestor.

That the military chief owes his ^d appointment to the consent of his fellow-warriors is a fact sufficiently obvious.

Lastly: The causes which Mr. Paley enumerates, ^e as having given rise to the rule of hereditary succession, are all of them motives by which the members of a community would be induced to establish that rule by consent; but they do not, either singly or collectively, afford an argument to prove that by any other means than consent the establishment could justly have taken place.

^c P. 113.

^d P. 114.

^e P. 115.

C H A P. III.

EXAMINATION OF SOME OF MR. PALEY'S OBJECTIONS
TO THE ESTABLISHMENT OF CIVIL OBEDIENCE ON
CONSENT.

THOUGH I apprehend it to have been clearly proved, that the consent of the subject is the only just foundation on which civil government can be established; yet the authority of Mr. Paley, who totally rejects this doctrine, is so great as to entitle his arguments to distinct consideration. I shall enter into an examination of them with greater willingness, as in the course of it I shall have an opportunity of making some remarks, which may tend to elucidate the true nature of social polity.

The theory against which Mr. Paley immediately directs his attack, is a theory which I think by no means unobjectionable. I shall proceed to separate those parts of it which are indefensible from those which appear to rest on immovable foundations; after premising

L 2

that

that it is not this theory alone, but every theory which grounds civil obedience on the consent of the subject, that Mr. Paley labours to explode. He ^f rejects the intervention of a compact “as unfounded in its principle, and “dangerous in the application;” and substitutes ^g “public expediency in the place of all “implied compacts, promises, and conventions whatsoever.”

Mr. Paley observes that the compact, which Mr. Locke and other political writers affirm to subsist between the citizen and the state, is twofold.

“First ^h: An *express* compact by the primitive founders of the state, who are supposed to have convened for the declared purpose of settling the terms of their political union, and a future constitution of government: the whole body is supposed, “in the first place, to have unanimously consented to be bound by the resolutions of the majority; that majority, in the next place, to have fixed certain fundamental regulations; and then to have constituted,

^f Paley, Vol. II. P. 141.

^g P. 143.

^h P. 130.

“either

“ either in one person or in an assembly,
 “ (the rule of succession or appointment be-
 “ ing at the same time determined) *a standing*
 “ *legislature*, to whom, under these pre-esta-
 “ blished restrictions, the government of the
 “ state was thenceforward committed; and
 “ whose laws the several members of the
 “ convention were, by their first undertaking,
 “ thus personally engaged to obey. This
 “ transaction is sometimes called the *social*
 “ *compact*; and these supposed original regu-
 “ lations compose what are meant by the
 “ *constitution*, the *fundamental laws of the*
 “ *constitution*; and form on one side the *in-*
 “ *herent indefeasible prerogative* of the crown,
 “ and on the other the *unalienable birth-*
 “ *right* of the subject.”

“ Secondly: A *tacit* or *implied* compact, by
 “ all succeeding members of the state, who,
 “ by accepting its protection, consent to be
 “ bound by its laws; in like manner, as
 “ whoever *voluntarily enters* into a private
 “ society is understood, without any other
 “ or more explicit stipulation, to promise a
 “ conformity with the rules, and obedience
 “ to the government, of that society, as the

“ known conditions upon which he is admitted to a participation of its privileges.”

“ This account of the subject, although specious, and patronised by names the most respectable, appears to labour under the following objections; that it is founded upon a supposition, false in fact, and leading to dangerous conclusions.”

In support of these objections, Mr. Paley proceeds, in the first place, to contest the existence of the *express* compact stated and described above. He observes¹ that “ no social compact, similar to what is here described, was ever made or entered into in reality; no such original convention of the people was ever actually held, or in any country could be held, antecedent to the existence of civil government in that country.

“ It is to suppose it possible to call savages out of caves and deserts, to deliberate and vote upon topics, which the experience, and studies, and refinements, of civil life

¹ Page 132.

“ alone

“ alone suggest. Therefore no government
 “ in the universe began from this original.”

Afterwards Mr. Paley adds, in reply to those who propose this original compact, not as a fact, but as a fiction, which furnishes a convenient explanation of the nature of civil government, that, “ if ^k it be not a fact, it is
 “ *nothing*; can confer no actual authority
 “ upon laws or magistrates; nor afford any
 “ foundation to rights, which are supposed
 “ to be real and existing.”

In this formidable attack on the existence and efficacy of Mr. Locke's *original* compact I entirely concur. I admit that no such compact ever did or could exist in any country; that no government in the world has been thus established; and that a supposed fictitious compact can never create a substantial right. But I must also remark, that the existence or non-existence of this original compact is a matter of perfect indifference to my argument; and a speculation wholly unimportant to the present members of any society. It

* Page 134.

has already been shewn, that every man capable of moral agency is originally possessed of various rights by the immediate gift of God; rights which no stipulations of his ancestors can shackle and abridge, nor any power justly infringe against the consent of the possessor, until he has forfeited them by his crimes. His birthright is not unalienable; but it is alienable only by himself. If therefore such an original compact had ever taken place, it would not have been obligatory on succeeding generations. They in their turn would enjoy from their Maker's bounty the same liberty with which their forefathers were endowed, of instituting such a form of government as they should deem for their advantage; and of modelling, of curtailing, and of annihilating, whatever had been termed the inherent and inextinguishable prerogative of the crown.

Mr. Paley, in the next place, points his artillery against the *implied* compact. “¹ The
 “ native subjects of modern states are not
 “ conscious of any stipulations with their
 “ sovereigns; of ever exercising an election

¹ Page 136.

“ whether

“ whether they will be bound or not by the
 “ acts of the legislature ; of any alternative
 “ being proposed to their choice ; of a pro-
 “ mise either required or given ; nor do they
 “ apprehend that the validity or authority of
 “ the laws depends at all upon their recog-
 “ nition or consent. In all stipulations,
 “ whether they be expressed or implied,
 “ private or public, formal or constructive,
 “ the parties stipulating must both possess
 “ the liberty of assent and refusal, and also
 “ be conscious of this liberty ; which cannot
 “ with truth be affirmed of the subjects of
 “ civil government, as government is now
 “ or ever^m was administered. This is a
 “ defect which no arguments can excuse or
 “ supply ; all presumptions of consent, with-
 “ out this consciousness, or in opposition to
 “ it, are vain and erroneous.”

If we should admit Mr. Paley's statements
 in this extract to be accurate in their utmost
 latitude, they would shew that government

^m It is obvious that this assertion is incompatible with
 those parts of Mr. Paley's Chapter on the Origin of Civil
 Government which have been recently quoted and con-
 sidered.

has not *in fact* been established on the principle of the subject having given his consent; but they do not afford the shadow of an argument to prove that it can *justly* be established on any other principle: they contain not a single expression which may lead to prove a *right* in a civil governor to exact obedience, without having previously obtained the express or implied consent of the governed. I might therefore dismiss the objection, as totally irrelevant in an inquiry into the just foundation of civil government.

But these positions of Mr. Paley, if understood in that extent which the words seem naturally to imply, do not give an adequate representation of the case as it really exists. With respect to our own government in particular, the fact is in many instances the reverse of the preceding description. Not only our ablest political writers inculcate the doctrine of civil government originating from the consent of the governed; not only the public speakers in both houses of parliament, however numerous, and however essential the topics may be on which they differ, universally concur in vindicating the native right

of the people to frame their own system of government, and thereby at once manifest and guide the general opinion of the nation; but almost every subject of the realm is apprized that the sovereign at his coronation binds himself by a solemn oath to observe certain stipulations, imposed on the part of his subjects to mark the limits of his power; and believes that the wilful violation of them would absolve him from allegiance. This principle is so well understood by Englishmen, and the signal recognition of it at the period of the Revolution has received such general applause, that few, even if selected from the lowest and most unenlightened classes, would not think themselves released on this very principle from the obligation of obedience (however necessity might constrain them to acquiesce,) if their monarch were to establish the Roman catholic religion, or to transfer his dominions as a province to France. The preceding observations may be applied, in a greater or less degree, to most, if not all, European governments.

It may also be observed, with respect to most states in this part of the world, and particularly

larly concerning our own, that every man is conscious that if he continues in the dominions of the state he must implicitly submit to its laws ; and consequently by this continuance he tacitly and decidedly consents to obey them ⁿ. And his consent is accepted by the state through the medium of the laws, which describe what persons shall be considered as subjects. Whether he is aware of the contents of all, or of any, of these laws is a matter of no consequence. My reader considers himself under a general obligation to submit to the present laws of the land, though perhaps there are few among them with which he is accurately acquainted.

But, it may be said, numbers are little informed, or totally ignorant, respecting these

ⁿ Mr. Paley, p. 137, states that the writers in favour of the implied compact maintain that allegiance is more especially promised by the purchase and inheritance of lands. As I have not rested any part of my argument on the circumstance of holding lands (although a circumstance affording an open proof of the occupier conforming to the laws and consenting to be a member of the state), it is not necessary for me particularly to consider his remarks on that branch of the subject.

original

original rights, and obey without consideration. And it must be owned that government is a system too complex, and too far removed from the common apprehension of the crowd, to make it possible that in any state it should be universally understood. The intelligent alone will have a complete insight into its principles and mechanism; others, as they gradually descend in the scale of society, will entertain ideas more and more imperfect; until perhaps, in the very lowest class, both knowledge and curiosity, with regard to the just grounds of submission, may be almost extinguished. Nor is this partial ignorance peculiar to the subject of government; it prevails in a similar degree, and with consequences more to be lamented, with respect to religion. Yet neither in these, nor in any other examples, is any man divested of his native rights by the accidental circumstance of having lived in ignorance of them; nor precluded from reclaiming, when he awakes from his trance, the liberty which he has received from heaven. The slave, who has neither surrendered his freedom by his consent, nor forfeited it by his crimes, retains his title to it sound and unimpaired, though
 he

he may have toiled for half a century insensible of the injustice of his bondage ; as the Indian preserves his claim to the blessings purchased for him by the death of Christ, though he never heard of the name or of the existence of his Redeemer.

As, on the one hand, the subject is not divested of his natural rights by his ignorance of their existence, so neither is the state deprived of its title to his obedience in consequence of his having consented to obey on erroneous grounds, provided it has not contributed to create or to prolong his blindness.

But “ if the ° subject be bound only by his
 “ own consent, and if the voluntary abiding
 “ in a country be the proof and intimation of
 “ that consent ; by what arguments,” demands
 Mr. Paley, “ shall we defend the right, which
 “ sovereigns universally assume, of prohibit-
 “ ing when they please the departure of their
 “ subjects out of the realm ?” I have advanced nothing which lays me under an obligation of defending every right assumed or exercised by sovereigns. The position, which

I have undertaken to maintain, that the only just foundation of civil government is the consent of the subject, may be incontestably true, although the practice mentioned by Mr. Paley should be utterly indefensible. It may however be remarked, that if the state find it essentially requisite, for the purposes of justifiable self-defence, to prohibit, either by a law enacted on the particular occasion, or by a discretionary power vested in the hands of a deputed legislature, the departure of its subjects out of the realm, lest they should assist the enemy with intelligence, with their substance, or with their personal service, the imposition of this restraint is an exercise of a just right; and it is a restraint which, under those circumstances, the state would be justified in imposing on every inhabitant of the realm, whether citizen or foreigner. The prohibition, whenever it is not thus required by necessity, cannot be vindicated. But, if justifiable self-defence require the general law, and its operation should accidentally detain a particular individual, who might safely have been permitted to depart, the state, if it be unable to devise a test whereby those persons whose departure would be compatible with
its

its security may be ascertained, is no more culpable than he who should unintentionally wound a harmless passenger by discharging a pistol at an assassin. It would be more obviously unreasonable to accuse the state of confining the subject, and exacting obedience without his consent, if poverty, or an accidental circumstance of a similar nature, should prevent him from leaving the country. If a tenant find himself compelled to hold a farm against his will, by being unable to bear the expense of removal, or in consequence of having broken his leg, the landlord is not chargeable with detaining him, nor does he forfeit his title to the rent.

“ Still less is it possible,” adds Mr. Paley,
 “ to reconcile, with any idea of stipulation,
 “ the practice, in which all European nations
 “ agree, of founding allegiance upon the cir-
 “ cumstance of nativity ; that is, of claiming
 “ and treating as subjects all those who are
 “ born within the confines of their dominions,
 “ although removed to another country in
 “ their youth or infancy. In this instance

“ certainly the state does not presume a
 “ a compact.”

I must again observe, that this practice, and other practices of states, may be diametrically opposite to the position, that just government can be established only on consent, and yet that position may be true. What is right is often the reverse of what is fact. Numberless actions arise daily from motives the most depraved; yet obedience to God is the only just principle of conduct. I will not repeat the reflections contained in the preceding chapter, on the obligation of allegiance being founded on the circumstance of birth. I cannot however refrain from remarking, that the practice of executing as rebels those who are taken in arms against the country in which they were born, although they have been nurtured in a foreign realm from their earliest infancy, is to be vindicated on no plea, except that of self-defence; and, without the strongest proofs of its being necessary for that purpose, cannot be rescued from the charge of barbarity and injustice.

C H A P. IV.

MR. PALEY'S REMAINING OBJECTIONS CONSIDERED.
COMPARATIVE VIEW OF THE TWO SYSTEMS.

“ THE ^a theory of government, which
“ affirms the existence and obligation of the
“ social compact, would, after all, merit little
“ discussion; and, however groundless and
“ unnecessary, should receive no opposition
“ from us, did it not appear to lead to con-
“ clusions unfavourable to the improvement
“ and to the peace of human society.”

This is an observation which very naturally suggests itself to a moralist, who pronounces on the rectitude of every action, and the obligation of every duty, solely according to his ideas of utility. Mr. Paley, in support of his allegations, urges three additional objections to the doctrine of the rights of government being founded on the consent of the subject, designed to shew the pernicious consequences

^a Page 138.

which

which would ensue from admitting it. These objections I shall distinctly consider; but, previously to any examination of them, I must observe that, if the position, against which their force is directed, has already been proved by sound reasoning, not even a demonstration that its reception would be followed by undesirable effects would afford an argument against its truth. The ravages of an eruption do not disprove the existence of the volcano.

Mr. Paley's first objection is couched in the following terms; " Upon ^b the supposition
 " that government was first erected by, and
 " that it derives all its just authority from
 " resolutions entered into by a convention of
 " the people, it is capable of being presumed
 " that many points were settled by that convention anterior to the establishment of
 " the subsisting legislature; and which the
 " legislature consequently has no right to alter
 " or interfere with. These points are called
 " the *fundamentals* of the constitution; and,
 " as it is impossible to determine how many
 " or what they are, the suggesting of any
 " such serves extremely to embarrass the de-

^b Page 138.

“ liberations of the legislature, and affords a
 “ dangerous pretence for disputing the autho-
 “ rity of the laws.”

These arguments apply solely to the *original express* compact asserted by Mr. Locke : I have already denied the existence of any such compact ; and have further endeavoured to shew, that, even if it had existed, the present generation could not have been divested of their natural rights by the stipulations of their ancestors. I should not therefore have thought it necessary to quote the preceding paragraph, had it not been for the purpose of subjoining this obvious remark. The bad consequences enumerated therein will not flow from the supposition that an individual, by voluntarily continuing in the state, *impliedly* consents to submit to the existing laws, and thus confers on the community a title to his obedience.

Mr. Paley, in the second place, alleges that, “ if it be by virtue of a compact that
 “ the subject owes obedience to civil govern-
 “ ment, it will follow that he ought to abide
 “ by the form of government which he finds
 “ established, be it ever so absurd or incon-

“ venient : he is bound by his bargain. It is
 “ not permitted to any man to retreat from
 “ his engagement merely because he finds the
 “ performance disadvantageous, or because he
 “ has an opportunity of entering into a better.
 “ This law of contracts is universal.”—“ Re-
 “ sistance to the *encroachments* of the supreme
 “ magistrate may be justified upon this prin-
 “ ciple; recourse to arms, for the purpose of
 “ bringing about an amendment of the con-
 “ stitution, never can.”—“ Despotism is the
 “ constitution, of many states; and while a
 “ despotic prince exacts from his subjects the
 “ most rigorous servitude, according to this
 “ account, he is only holding them to their
 “ agreement,”

I give Mr. Paley's arguments in his own words, that they may appear with their utmost force: their validity rests wholly on a presumption that it necessarily follows, from the assertion of a compact, that, whenever an individual becomes a member of a community, he thereby engages to abide by the system of government which he finds established, as long as his governors shall abstain from encroachments. But, until Mr. Paley's hypo-

thesis be substantiated, his objection can have no real weight.

When an individual enters into a civil society, his implied promise to obey the laws necessarily supposes that he is also admitted to enjoy the rights of a citizen. It is given, not, in the first instance, to the prince or legislative body, but to the state at large; and to the legislature only in virtue of its possessing the delegated authority of the state. The citizens of each community are the source and fountain of civil power, which, it has been proved, can be established on no just grounds except their consent; and their obligation to obedience is commensurate with the right which they have themselves created in the legislature, by a special grant of power, either express or implied. If therefore we admit, in the case of any particular government, that the legislature has not transgressed its appointed bounds; yet, unless it can be demonstrated that the citizens have at some particular period deprived themselves of their natural right of reclaiming at their discretion this deputed authority, by entering into an engagement that the grant shall be irrevocable; and

and unless it can be further shewn, that every succeeding member of the state has also bound himself by the same engagement; the whole of Mr. Paley's argument falls to the ground.

That these engagements do *necessarily* exist in every civil society is not surely to be presumed as self-evident.

There is, in truth, no better reason for presuming that he, who, by voluntarily becoming a member of a community, gives the legislature a deputed power over him, does thereby engage never to resume the grant; than there would be for concluding that he, who takes a house at a certain rent, does thereby engage to hold it during his life on the same terms; or that he, who voluntarily becomes the servant of another, does thereby contract never to quit his place, or to insist on making a fresh bargain, as long as his master uses him well, and pays him his present wages. Such engagements can never be supposed; they must be proved by express stipulation.

“ Every^d violation of the compact on the
 “ part of the governor releases the subject
 “ from his allegiance, and dissolves the govern-
 “ ment. I do not perceive how we can
 “ avoid this consequence, if we found the
 “ duty of allegiance upon compact, and con-
 “ fess any analogy between the social com-
 “ pact and other contracts. In private con-
 “ tracts, the violation or non-performance of
 “ the conditions by one of the parties vacates
 “ the obligation of the other. Now the
 “ terms and articles of the social compact
 “ being no where extant or expressed; the
 “ rights and offices of the administrator of an
 “ empire being so many and various; the
 “ imaginary and controverted line of his pre-
 “ rogative being so liable to be overstepped
 “ in one part or other of it; the position
 “ that every such transgression amounts to a
 “ forfeiture of the government, and conse-
 “ quently authorises the people to withdraw
 “ their obedience, and provide for themselves
 “ by a new settlement, would endanger the
 “ stability of every political fabric in the
 “ world, and has, in fact, always supplied
 “ the disaffected with a topic of seditious

“ declamation. If occasions have arisen in
 “ which this plea has been resorted to with
 “ justice and success, they have been occa-
 “ sions in which a revolution was defensible
 “ on other and plainer principles : the plea
 “ itself is at all times captious and unsafe.”

That every wilful violation of the compact on the part of government would authorise the people to withdraw their obedience, even if it were supposed that they had not the right independent of such violation, I admit ; but that every such violation dissolves the government (as Mr. Paley asserts) is an inference which by no means necessarily follows, and an inference which is contradicted by the analogy of other contracts. If a private person appoints an agent, under certain stipulations, to manage his affairs for an unlimited time ; and the latter, in a particular instance, should knowingly transgress the bounds of his power ; it does not inevitably follow that his agency ceases from that moment. His employer, on being informed of his conduct, has a right to displace him ; but, if he passes over in silence what has happened, the other continues in full possession of his office, and his future acts

as agent are valid. This reasoning exactly applies to the situation of a governor and his subjects. He is their agent, with a prerogative by no means so indefinite as Mr. Paley seems to represent it, but determined by the known laws and usages of the land; and, although he may have exercised unconstitutional authority, yet he does not thereby cease at once to be governor. The people, it is true, may discharge him from his office; but if they are induced by prudential considerations, or by reflections on human weakness, to refrain from deposing him, he continues to have the same title to obedience from every member of the state as he had previously to the commission of the crime for which he might have been stripped of his power.

Mr. Paley proceeds to point out seven inferences, which he affirms to be important, and to “result” from the substitution of public “expediency in the place of all implied compacts, promises, or conventions whatsoever.” Without immediately entering into a professed inquiry how far the whole of these consequences in their full extent are beneficial, I

shall, in the first place, examine whether they are peculiar to Mr. Paley's system.

1st: "It may be as much a duty at one time to resist government as it is at another to obey it; to wit, whenever more advantage will, in our opinion, accrue to the community from resistance than mischief." The principle, on which I have endeavoured to establish the duty of submission, by no means excludes the duty of resistance. On that principle, subjects have a *right* to resist; not indeed, as Mr. Paley maintains, merely according to their ideas of expediency; but whenever the legislature exceeds the bounds of the authority with which it is intrusted, or persists in retaining that authority without possessing, either by stipulation or acquiescence, the consent of the community. And it is the *duty* of subjects to exert that right whenever they are persuaded that the purposes of their being, one of the most important of which is to promote the welfare of all orders of the state, will not be answered by forbearance as effectually as by resistance.

2dly:

2dly: “ The lawfulness of resistance, or
 “ the lawfulness of a revolt, does not depend
 “ alone upon the grievance which is sustained
 “ or feared; but also upon the probable ex-
 “ pense and event of the contest.”

This is the second of Mr. Paley’s inferences, and together with it I shall consider the fourth; as the substance of both is the same, though clothed in different expressions.

“ Not every invasion of the subjects rights,
 “ or liberties, or of the constitution; not
 “ every breach of promise or of oath; not
 “ every stretch of prerogative, abuse of power,
 “ or neglect of duty by the chief magistrate,
 “ or by the whole or any branch of the
 “ legislative body, justifies resistance; unless
 “ these crimes draw after them public conse-
 “ quences of sufficient magnitude to out-
 “ weigh the evils of civil disturbance.”

I must request the reader to recollect the distinction, which I have had frequent occasion to notice, between acts of duty to God and of justice to men. The preceding quotations from Mr. Paley, considered as referring
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only to actions of the former class, are perfectly compatible with the principle which I have asserted to be the only just foundation of government, and are immediately deducible from the propositions^f established in a former part of this treatise. The citizen who resists an usurper, or a tyrant, is guilty of a breach of duty towards God, if he resists when forbearance would equally have enabled him to accomplish the ends for which he was created; and I have already observed, that to promote the happiness of others is one of the most important of those ends. They, who concerted the revolution, would not have been guilty of any injustice towards James, even though they had opposed him without having any prospect of success; but they would have flagrantly violated their duty to God, had they engaged in a hopeless or unpromising enterprize, which would necessarily have produced the calamities of a civil war, and probably have riveted more strongly the fetters of their fellow subjects.

^f Part II. Chap. III. and IV.

3d: “ Irregularity, in the first foundation
 “ of a state, or subsequent violence, fraud,
 “ or injustice in getting possession of the
 “ supreme power, are not sufficient reasons
 “ for resistance, after the government is once
 “ peaceably settled.”

A peaceable settlement of the government proves that the subjects consent to the sovereignty of the prince on the throne, by whatever means he may have obtained possession of it. And they have in all cases a right to give this consent, except it has been alienated or forfeited by their own act. The rule then is equally applicable, whether government be founded on consent or on expediency.

4th: The fourth of Mr. Paley's inferences has already been considered.

5th: “ No usage, law, or authority
 “ whatever, is so binding, that it need or
 “ ought to be continued, when it may be
 “ changed with advantage to the com-
 “ munity.”

It

It has been sufficiently shewn in the preceding pages, that every law, whether it relate to the family of the prince, the order of succession, the form and authority of the legislature, or the duties of the subject, is mutable at the will of the community; except as far as the members of the state have abridged, by particular stipulations, their natural right of altering the laws.

The rule thus limited is an immediate consequence of the position, which establishes government on consent. .

Mr. Paley proceeds to deduce from the principle of expediency the reasons why a Frenchman is bound in conscience to bear many things from his king, to which an Englishman is not obliged to submit. If the principles which I have endeavoured to establish are true, the answer to an enquiry into the different obligations of the members of different communities will flow from an equally obvious and less objectionable source. The inhabitants of the whole world are severally endowed with the same natural rights; and the difference in the degrees of

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authority .

authority to which the monarchs of neighbouring countries are entitled, is created by a difference in the laws to which their respective subjects give their consent.

7th : “ The interest of the whole society “ is binding upon every part of it.” This rule, if confined to the internal regulations of the society, is perfectly consistent with the positions which I have maintained. I have repeatedly stated, that few of the duties which an individual owes to God are of higher concern than strenuous exertions for the welfare of those with whom he is united by the ties of social connection; and a similar conduct is in many cases required by strict justice. Yet however laudably his zeal may be exerted in enduring hardships, in submitting to losses, or in exposing himself to dangers for the sake of his fellow-subjects, it must be scrupulously restrained to those cases, in which it will not be attended with an unjust violation of the rights of other men.

As Mr. Paley professedly rests his most powerful objections to the doctrine, which ascribes the rights of government to the consent

sent of the subject, on the pernicious consequences with which he apprehends that doctrine necessarily to be burthened; and recommends his own principle of civil authority as peculiarly favourable to human happiness; I shall state the characteristic features of the two systems. The reader will judge whether the respective representations be fairly drawn; and will decide whether the principle of expediency or consent is the most favourable to the just authority of government, and to the peace and welfare of the people.

According to the positions which I have maintained, subjects have a right, not only to resist the legislature whenever it proceeds to an act of power unauthorised by the laws, but, further, to resume at any period the authority which they have delegated (unless they have entered into an express stipulation to the contrary) and to institute a new form of government, according to whatever plan they shall be inclined to adopt. These rights form a barrier against despotism, and afford ample scope for improvements in civil polity,

At the same time considerations are not wanting, by which the stability of the sovereign power is secured from the danger of unnecessary changes in the constitution, and the community from the calamities of intestine discords and civil war. Every subject is bound, as long as he continues a member of the state, to obey all such laws as the state has a right to enact, and determines to continue; and in estimating the propriety of resisting the encroachments of the magistrate, or of abetting any change in the constitution, he is highly criminal in the sight of God, if a regard to the welfare of his fellow-subjects be not one of the motives which have a principal influence on his mind.

But, though the prosperity of his country must be one of the leading objects of his care as a member of civil society, he is bound, as a being accountable to his Maker, to abstain from all attempts to promote it at the expense of justice. He is to remember the sacredness of the rights of others; and this consideration will preserve him from being misled by mistaken patriotism in his conduct towards foreigners; it will preserve him from
being

being deluded by mistaken ideas of allegiance to concur in acts of tyranny towards his fellow-citizens.

On Mr. Paley's principles, the subject has a right, and is also bound in point of duty, to resist the existing governors, whether usurpers or not, and to join in affecting a change in the constitution, then, and then only, when such steps will, in his opinion, conduce to the public welfare. According to this position, however tyrannical, unjust, or impious, the commands of government may be, if he^s should be ordered to destroy an innocent fellow-citizen; to ravage the territories of an ally; to embrace a religion which he knows to be idolatrous; in all these cases, if he conceives that compliance will promote general expediency, compliance is his duty. Nay, he would act as meritorious a part in betraying his country, in setting fire to her dock-yards, or in blowing up her legislature, to promote

^s The reader will recollect what I have quoted from Mr. Paley, in a former part of this treatise, that in his opinion cases may arise in which every moral duty is superseded on the ground of general expediency.

the designs of a foreign invader, if he should imagine that such a deed would, on the whole, be productive of advantage to mankind, as if, with contrary sentiments, he had hazarded his life in the breach for her defence. In like manner he is authorized to violate every law, even though he should have personally engaged by promise or by oath on no plea whatever to disobey it; he is empowered, like Cade, to head a barbarous rebellion; like Felton, to murder the favourite of the monarch; like Damiens, to assassinate the monarch himself; whenever his passion or his fanaticism induce him to believe that these outrages will in the end be sanctioned by utility. Nor is less latitude allowed by Mr. Paley to the discretion of the governor than to that of the subject. “ The reasoning^h which deduces the authority of civil government from the will of God, and which collects that will from public expediency alone, binds us to the unreserved conclusion, that the jurisdiction of the magistrate is limited by no consideration but that of general utility: in plainer terms, that, whatever

^h Paley, Vol. II. Page 324.

“ is the subject to be regulated, it is lawful
 “ for him to interfere, *whenever* his inter-
 “ ference, in its general tendency, appears
 “ (to the magistrate himself, as Mr. Paley
 “ afterwards says expressly)ⁱ to be conducive
 “ to the common interest.” He is there-
 fore authorized to violate at his discretion all
 the rights of his subjects, by whatever solemn
 engagements he may have bound himself to
 preserve them; he is obliged in conscience
 to trample on every law, human and divine,
 whenever such conduct accords with his
 notions of general expediency. If then he
 should be of opinion, that by assuming power
 in opposition to the will of the nation, and
 maintaining it by an army of mercenaries,
 he should promote the good of the people
 without impairing the happiness of mankind
 in general, he would be justified in his usur-
 pation. If he should also think that lavishing
 the blood of his subjects in a crusade, and
 seizing half their property to defray the charge
 of the enterprise, would be an additional advan-
 tage to them, he would do no more than his
 duty in turning a deaf ear to their remon-

ⁱ Vol. II. Page 327.

frances, and in enforcing submission by the bayonet.—Nay, though he should not be able to satisfy himself that these proceedings would be for the interest of his people; yet, if he should fancy that GENERAL good would in some way be promoted by them; or if he should endeavour to promote it by putting his subjects into the hand of a neighbouring potentate as vassals; by selling them for slaves to a company of foreign merchants; or by introducing among them Popery or Paganism, and enforcing its reception by inquisitorial persecution; in each of these instances, according to Mr. Paley's principle, he would merit the gratitude of mankind, and the approbation of his God.

T H E E N D.





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